

Rule 4. Appeal as of Right — When taken.

(a) Appeal in a Civil Case.

(1) Time for Filing a Notice of Appeal. The notice of appeal in a civil case must be filed with the Clerk of the Superior Court within 30 days after entry of the judgment or order from which the appeal is taken unless a different time is specified by these Rules or the provisions of the District of Columbia Code. See, for example, D.C. Code § 17-307 (b) (2001) (small claims). An appeal from an order granting or denying an application for a writ of error coram nobis is an appeal in a civil case for purposes of Rule 4 (a).

(2) Filing Before Entry of Judgment. A notice of appeal filed after the court announces a decision or order — but before the entry of the judgment or order — is treated as filed on the date of and after the entry.

(3) Multiple Appeals. If one party files a timely notice of appeal, any other party to the proceeding in the Superior Court may file a notice of appeal within 14 days after the date on which the first notice of appeal was filed, or within the time otherwise prescribed by Rule 4 (a)(1), whichever period ends later.

(4) Effect of a Motion on a Notice of Appeal.

(A) If a party timely files in the Superior Court any of the following motions under the rules of the Superior Court, the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion:

(i) for judgment as a matter of law;

(ii) to amend or make additional factual findings, whether or not granting the motion would alter the judgment;

(iii) to vacate, alter, or amend the order or judgment;

(iv) for a new trial; or

(v) for relief from a judgment or order if the motion is filed no later than 10 days (computed using Superior Court Rule of Civil Procedure 6 (a)) after the judgment is entered.

(B)(i) The time for filing a notice of appeal fixed by this section runs from the entry on the Superior Court docket of an order fully disposing of any of the foregoing motions, except that if any such order is conditioned on acceptance of a remittitur by any party, the time runs from the date on which a judgment based on acceptance of the remittitur is entered. Any statement accepting or rejecting a remittitur must be filed in the Superior Court and served on all other parties.

(ii) If a party files a notice of appeal after the court announces or enters a judgment — but before it disposes of any motion listed in Rule 4 (a)(4)(A) — the notice becomes effective to

appeal a judgment or order, in whole or in part, when the order disposing of the last such remaining motion is entered.

(iii) A party intending to challenge an order disposing of any motion listed in Rule 4 (a)(4)(A), or a judgment altered or amended upon such a motion, must file a notice of appeal — in compliance with Rule 3 (c) — within the time prescribed by this Rule measured from the entry of the order disposing of the last such remaining motion.

(5) Extension of Time.

(A) The Superior Court may extend the time for filing the notice of appeal if:

(i) a party files the notice of appeal no later than 30 days after the time prescribed by Rule 4 (a) expires; and

(ii) that party shows excusable neglect or good cause.

(B) A request for extension of time made before the expiration of the time prescribed in Rule 4 (a)(1) or (3) may be ex parte unless the court requires otherwise. If the request is made after the expiration of the prescribed time, it must be by motion and provide such notice to the other parties as the court deems appropriate.

(6) Entry Defined. A judgment or order is entered for purposes of this rule when it is entered in compliance with the rules of the Superior Court. When a judgment or final order is signed or decided outside the presence of the parties and counsel, such judgment or order will not be considered as having been entered, for the purpose of calculating the time for filing a notice of appeal, until the fifth day after the Clerk of the Superior Court has made an entry on the docket reflecting service of notice by that Clerk.

(7) Reopening Time to Appeal. The Superior Court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if all the following conditions are satisfied:

(A) the court finds that the moving party did not receive notice under Superior Court Rule of Civil Procedure 77(d) of the entry of the judgment or order sought to be appealed within 21 days after entry;

(B) the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice under Superior Court Rule of Civil Procedure 77(d) of the entry, whichever is earlier; and

(C) the court finds that no party would be prejudiced.

(b) Appeal in a Criminal Case.

(1) Time for Filing a Notice of Appeal. A notice of appeal in a criminal case must be filed with the Clerk of the Superior Court within 30 days after entry of the judgment or order from

which the appeal is taken, unless a different time is specified by the provisions of the District of Columbia Code.

(2) Filing Before Entry of Judgment. A notice of appeal filed after the announcement of a verdict, decision, sentence, or order — but before the entry of the judgment or order — is treated as filed on the date of and after the entry. If a notice of appeal filed after verdict is not followed by the entry of a judgment, the appeal is subject to dismissal at any time for lack of jurisdiction.

(3) Effect of a Motion on a Notice of Appeal.

(A) If a defendant timely makes any of the following motions under the Superior Court Rules of Criminal Procedure, the notice of appeal from a judgment of conviction must be filed within 30 days after the entry of the order disposing of the last such remaining motion, or within 30 days after the entry of the judgment of conviction, whichever period ends later. This provision applies to a timely motion:

(i) for judgment of acquittal under Rule 29;

(ii) for a new trial under Rule 33, but if based on newly discovered evidence, only if the motion is made no later than 30 days after the entry of the judgment; or

(iii) for arrest of judgment under Rule 34.

(B) A notice of appeal filed after the announcement of a verdict, decision, sentence, or order — but before the court disposes of any of the motions referred to in Rule 4 (b)(3)(A) — becomes effective upon the later of the following:

(i) the entry of the order disposing of the last such remaining motion; or

(ii) the entry of the judgment of conviction.

(C) A valid notice of appeal is effective — without amendment — to appeal from an order disposing of any of the motions referred to in Rule 4 (b)(3)(A).

(4) Motion for Extension of Time. Upon a finding of excusable neglect or good cause, the Superior Court may — before or after the time has expired, with or without motion and notice — extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by Rule 4 (b).

(5) Entry Defined. A judgment or order is deemed to be entered within the meaning of this subdivision when it is entered on the criminal docket by the Clerk of the Superior Court. When a judgment or final order is signed or decided out of the presence of the parties and counsel, such judgment or order will not be considered as having been entered, for the purpose of calculating the time for filing a notice of appeal, until the fifth day after the Clerk of the Superior Court has made an entry on the criminal docket reflecting the mailing of notice. *Singer v. Singer*, 583 A.2d 689 (D.C. 1990).

(c) Expedited and Emergency Appeals.

(1) Expedited Appeals.

(A) These appeals include, but are not limited to: government appeals from pre-trial orders, D.C. Code § 23-104 (a)(1) (2001), and appeals from orders of the Family Court either terminating parental rights or granting or denying petitions for adoption, D.C. Code § 11-721 (g) (2001). Additionally, any party may file a motion with this court requesting that an appeal be expedited.

(B) The appellant or counsel for appellant must:

(i) Timely file a notice of appeal in the Superior Court and file a stamped copy of the notice with the Clerk of this court.

(ii) Within 10 days, order or file an appropriate motion for preparation of the necessary transcript on an expedited basis, and make arrangements for payment as required by Rule 10 (b)(4).

(C) Upon completion of the record, the Clerk will issue a briefing order, and the case will be given priority in calendaring.

(2) Emergency Appeals.

(A) These appeals include, but are not limited to: pre-trial bail or detention appeals, D.C. Code § 23-1324 (2001), juvenile interlocutory appeals, D.C. Code § 16-2328 (2001), government appeals from intra-trial orders, D.C. Code § 23-104 (b) & (d) (2001), and extradition appeals, D.C. Code § 23-704 (2001).

(B) The appellant or counsel for appellant must:

(i) Review the applicable statute or rule to assure compliance with the controlling time requirements.

(ii) Timely file a notice of appeal in the Superior Court and notify the Clerk of this court in person or by telephone of: the filing of the notice of appeal, the nature of the emergency appeal, the names and telephone numbers of all parties or their attorneys, and any transcript needed for the appeal.

(iii) Immediately order the necessary transcript or have necessary vouchers prepared and submitted to the trial judge. Any order or voucher for transcript must request overnight preparation. If transcript is ordered, the appellant must pay for it promptly upon completion.

(iv) Submit a written motion setting forth the relief sought and the grounds therefor, and personally serve a copy on the other parties. The motion must be accompanied by a copy of the order being appealed from and any other documents filed in the Superior Court which counsel believes essential for the court's consideration.

(C) Opposing counsel must submit and personally serve a written response or cross-motion in compliance with Rule 4 (c)(2)(B)(iv).

(D) The Clerk will advise the assigned division of this court of the pendency of the emergency appeal so that the case may be promptly decided or scheduled for argument where appropriate.

(E) In the case of a juvenile interlocutory appeal, the motion must be filed no later than 4:00 pm on the next calendar day after the filing of the notice of appeal. Any opposition must be filed with the Clerk by noon on the following calendar day, unless these times are shortened by court order.

(d) Appeal by an Inmate Confined in an Institution.

(1) If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 4 (d)(1). If an inmate files a notice of appeal in either a civil or a criminal case, the notice is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

(A) it is accompanied by:

(i) a declaration in compliance with 28 U.S.C. § 1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being prepaid; or

(ii) evidence (such as a postmark or date stamp) showing that the notice was deposited and that postage was prepaid; or

(B) the court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 4 (d)(1)(A)(i).

(2) If an inmate files the first notice of appeal under this Rule 4 (d), the 14-day period provided in Rule 4 (a)(3) for another party to file a notice of appeal runs from the date when the Superior Court docketed the first notice.

(e) Mistaken Filing in the Court of Appeals. If a notice of appeal is submitted to this court, the Clerk must note on the notice the date when it was received and send it to the Clerk of the Superior Court. The notice is then considered filed in the Superior Court on the date so noted.

(f) Remand to the Superior Court. When a case is pending in this court, and the Superior Court has indicated its intention to grant a motion that will alter or amend the order, decision, judgment, or sentence that is the subject of the appeal, the movant must notify the Court of Appeals, and any party may request a remand of the case for that purpose by filing in this court a motion to remand the case stating the trial judge's intention. See Rule 41 (e).