

## **Rule 48. Dismissal**

(a) By the Government.

(1) Information or Complaint. The government may file a dismissal or nolle prosequi of an information or complaint. Such a dismissal is without prejudice unless otherwise stated. The government may not dismiss the prosecution during trial without the defendant's consent.

(2) Indictment. The government may, with leave of court, dismiss an indictment. Such a dismissal is without prejudice unless otherwise stated. The government may not dismiss the prosecution during trial without the defendant's consent.

(b) By the Court. The court may dismiss an indictment, information, or complaint if unnecessary delay occurs in:

- (1) presenting a charge to a grand jury;
- (2) filing an information against a defendant; or
- (3) bringing a defendant to trial.

(c) Abandonment of Prosecution.

(1) Determination of Abandonment. If any defendant charged with a criminal offense is committed or held to bail to await the action of the grand jury and after nine months the grand jury has not taken action, either by ignoring the charge or by returning an indictment, the prosecution of such charge must be deemed abandoned and the defendant must be set free or have the bail discharged.

(2) Enlargement of Time. The court may enlarge the time for taking action by the grand jury when practicable, so long as good cause for enlargement is shown in writing, and due notice is given to the defendant.

## COMMENT TO 2016 AMENDMENTS

This rule has been redrafted to conform to the general restyling of the federal rules in 2002. It differs from the federal rule in several respects.

Paragraph (a) is divided into two parts. Subparagraph (a)(1) allows the government to enter a dismissal or nolle prosequi of an information or complaint without leave of court, while the federal rule requires leave of court to dismiss an indictment, information, or complaint. Subparagraph (a)(2), like the federal rule, requires leave of court to dismiss an indictment.

Paragraph (c) details abandonment of prosecution pursuant to D.C. Code § 23-102 (2012 Repl.).