

Obtaining Emergency Relief in the Fifth Circuit

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Overview

- Types of emergency relief available
- How to request emergency relief
- Governing standard
 - Civil appeals from money judgments
 - Civil appeals from injunctions or interlocutory orders
 - Criminal/post-conviction appeals

Types of relief

- Expedite appeal
- Stay or injunction pending appeal
- Release from imprisonment
- Other relief: Fed. R. App. 2.

How to request emergency relief

- Requested by motion.
 - General rule governing motions: Fed. R. App. P. 27; 5th Cir. R. 27.1-5
 - Stay or injunction: Fed. R. App. 8; 5th Cir. R. 8.1-10
 - Administrative orders: Fed. R. App. 18
 - Criminal appeals: Fed. R. App. 9; 5th Cir. R. 9.1-5
 - Habeas: Fed. R. App. 23
- Special rules for death penalty appeals. 5th Cir. R. 8.10

What goes in the motion?

- Single motion; no separate memorandum or proposed order
- 20-page limit for motions and oppositions, 10 pages for replies
- Attach certificate of interested persons and trial court's opinion or agency decision
- Affidavit: "factual information, not legal argument."
- Report meet-and-confer efforts and if an opposition will be filed. 5th Cir. R. 27.4.

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