

**PROCEDURES GOVERNING THE OPERATION OF THE
APPELLATE PANEL
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(18 U.S.C. § 3006A ET SEQ.)**

A. Program Administration

1. The Criminal Justice Act Appellate Panel consists of attorneys available for appointment as counsel for indigent defendants whose legal actions are destined for, or have arrived at, a Federal appeals court. This panel is known as the “Appellate Panel.”
2. A United States Magistrate Judge, designated by the Chief Judge of this District, administers the panel. The designation is made with the approval of the Chief Judge of the United States Court of Appeals for the Ninth Circuit.
3. The Appellate Panel is comprised of approximately 30 attorneys who each serve for two-year terms. The two-year terms are staggered, so that up to 15 members are appointed each calendar year. Each attorney must rotate off the panel for at least one year before reapplying. The Administering Judge, also known as the Appointing Authority, may vary the number of counsel serving on the Appellate Panel as necessary.
4. The Administering Judge may promulgate new rules and procedures or modify the existing ones as necessary for an orderly appointment of attorneys.
5. Once an appellate counsel is appointed, an order notifying the court of the name of the assigned attorney is e-mailed to the Ninth Circuit and counsel. The Ninth Circuit then emails a voucher to the assigned attorney via the electronic vouchering system. Approval of any payment for service is the responsibility of the Court of Appeals.
6. Notwithstanding these rules, the Administering Judge retains the right to appoint any attorney, including an attorney not on the panel, to represent an indigent defendant if deemed appropriate for the pursuit of justice.

B. Application Process

1. Requirements—Each attorney member of the panel must:
 - a. be admitted to practice before the highest court of the state of California and be a member in good standing of the California Bar.
 - b. be admitted to practice before the Ninth Circuit Court of Appeals.
 - c. submit a completed application electronically to the Administrating Judge using the court’s application form.
 - d. submit a writing sample, preferably an appellate brief, written by the applicant.
 - e. keep the Administrating Judge apprised of the attorney’s correct and current professional contact information.
 - f. notify the Administrating Judge if the attorney seeks to be removed from the panel or seeks a hiatus from receiving appointments.
 - g. notify the Administrating Judge if the attorney is removed from eligibility to receive appointments by any other federal court, district or circuit, or from a state court panel, or has been subject to any sanctions imposed due to an order to show cause, disciplinary actions, or formal or informal investigations by any federal or state government, court, administrative agency or bar association. Failure to do so may result in removal from the panel.
2. Federal Defenders of San Diego, Inc., helps the Administrating Judge by reviewing all applications and writing samples. The Administrating Judge makes the final appointment decisions.
3. Applications are available on the court’s web site. They must be submitted in compliance with the “Notice to Appellate Attorneys” for that year. Applicants will be told by December 31 whether they begin their two-year term on the upcoming January 1.

C. Assignment of Cases

1. Cases may be assigned to members of the Appellate Panel either by the Ninth Circuit or the District Court. If the notice of appeal has been filed, and the retained or appointed trial counsel seeks relief from representation on appeal, counsel must file a motion for relief with the Ninth Circuit. If the notice of appeal has not been filed, trial counsel must ask the District Judge to be relieved as counsel for the appeal. The District Judge must enter an order or minute order confirming that counsel has been relieved and then must refer to the Administrating Judge to appoint counsel for the appeal.
2. When the Ninth Circuit determines appointment of counsel is appropriate, it emails an order to the Administrating Judge direct the judge to locate and appoint counsel. Once received, the Administrating Judge determines whether the appeal presents extraordinary circumstances or will likely require specialized expertise (such as a complex trial, habeas, or death penalty case), and appoints accordingly. Otherwise, the chambers of the Administrating Judge contacts the next attorney in order on the alphabetical list.
3. Within 24 hours of being asked by the chambers of the Administrating Judge to take an appointment, the attorney must respond whether he or she accepts the appointment. If there is no response, the Administrating Judge will contact another appellate member. If the attorney refuses two appointments in a row, and has not submitted a request for a temporary hiatus, the judge may remove the attorney from the panel.
4. Once an assignment is made, an order including the name and contact information for the attorney assigned is emailed to the Ninth Circuit and counsel. The voucher is emailed to the assigned attorney via the electronic vouchering system after the Ninth Circuit receives the appointment order.
5. The most common type of case that requires an appellate appointment is a §1326 case resolved by plea. All panel members must be prepared to accept such cases. For those serving their inaugural term on the panel, most or all of the cases assigned during the two year term will be §1326 cases resolved by plea.