

**United States Court of Appeals
For the Eighth Circuit
Criminal Case Briefing Checklist**

BEFORE FILING A BRIEF IN THIS COURT, please review the provisions of Fed. R. App. P. 28, 29, 31 & 32, as well as 8th Cir. R. 25A, 28A and 32A, and the Plan to Expedite Criminal Appeals. In particular, check for:

1. Timeliness. Briefs must be submitted electronically or filed and served on the date set by the court's briefing schedule and orders. *See* 8th Cir. R. 28A(a). If the filing party cannot meet the deadline, a motion for additional time must be filed by the date the brief is due. Failure to meet the court's deadlines or file timely motions for additional time may result in the issuance of orders to show cause why the appeal should not be dismissed and why counsel should not be disciplined. Paper copies of briefs must be transmitted to the clerk and served on opposing counsel within 5 days after the electronic version of the brief is approved for filing. *See* 8th Cir. R. 28A(d).

2. Length limits. Principal briefs are limited to 13,000 words or 1,300 lines. *See* Fed. R. App. P. 32(a)(7). If no line or page count is provided, a main brief is limited to 30 pages. Reply briefs are limited to one-half of the length of principal briefs or 6,500 words or 650 lines using monospaced type. Amicus briefs are limited to one-half the length of the principal briefs as set forth in the rules, regardless of whether a party has been granted leave to file an overlength brief. *See* Fed. R. App. P. 29(a). In cross appeals, the appellee's principal and response brief is limited to 15,300 words, 1,500 lines or 35 pages. *See* Fed. R. App. P. 28.1(e).

3. Color of Cover. Appellant's principal brief - blue; appellee's principal brief - red; reply brief - gray; intervenor or amicus brief - green; any supplemental brief - tan. *See* Fed. R. App. P. 32(a)(2). In cross appeals: appellant's principal brief - blue; appellee's principal brief and response - red; appellant's response and reply brief - yellow; appellee's reply brief - gray; intervenor or amicus brief - green; any supplemental brief - tan. *See* Fed. R. App. P. 28.1(d).

4. Information on Cover. Appellate case number; court (Eighth Circuit); title of case as filed in the district court; nature of case (appeal, petition for review, etc.); name of the trial court; title of the brief (Appellant's Brief, etc.), identifying the party or parties for whom it is filed; and the name, address and telephone number of counsel. *See* Fed. R. App. P. 32(a)(2)(A-F).

5. Number of Copies. Ten copies in attorney-handled cases. *See* 8th Cir. R. 28A(d). Paper copies should not be sent until the clerk has notified counsel that the electronic version of the brief has been accepted for filing. *See* 8th Cir. R. 28A(a). Paper copies of briefs, addendums and appendices should be sent to the St. Louis Clerk's office.

6. Footnotes. Same size as the text of the brief; may be single spaced. *See* Fed. R. App. P. 32(a)(4).

7. Unpublished opinions. Cite pursuant to the provisions of Fed. R. App. P. 32.1 and 8th Cir. R. 32.1A.

8. Technical Requirements of the Electronic Version of the Brief. Prepare the electronic version of the brief as a single PDF document; include a statement that the brief and addendum have been scanned for viruses and are virus free. *See* 8th Cir. R. 28A(h).

9. Overlength Briefs. A motion for permission to file an overlength brief must be filed at least 7 days in advance of the brief due date. *See* 8th Cir. R. 28A(l).

10. Addendum. Every appellant's brief must have an addendum. *See* 8th Cir. R. 28A(g). The addendum must contain copies of the district court orders from which the appeal is taken, including any magistrate judge reports and recommendations. In a direct criminal appeal, the addendum should include the judgment and commitment order, as well as any other order, such as a suppression order, which forms the basis for an issue on appeal. *See* 8th Cir. R. 28A(g)(1)(i). Additionally, appellant may include up to 15 additional pages of record excerpts. Appellee may submit an addendum. *See* 8th Cir. R. 28A(g)(3). Addendums must be submitted in both electronic and paper formats. *See* 8th Cir. R. 28A(g)(4) and (5). The electronic version of the addendum is submitted as a separate document, while the paper version of the addendum should be attached to the paper version of the brief. *See* 8th Cir. R. 28A(g)(4) and (5).

11. ORDER OF THE CONTENTS OF THE OPENING BRIEF. *See* Fed. R. App. P. 28(a); 8th Cir. R. 28A(i).

1. Summary of the case and request for oral argument or waiver. 8th Cir. R. 28A(i).
2. Table of Contents, with page references. Fed. R. App. P. 28(a)(2).
3. Table of Authorities, arranged alphabetically, with page references. Fed. R. App. P. 28(a)(3).
4. Jurisdictional Statement. Fed. R. App. P. 28(a)(4).
5. Statement of Issues with apposite cases. Fed. R. App. P. 28(a)(5); 8th Cir. R. 28A(i)(2).
6. Statement of the Case, setting out the relevant facts, describing the relevant procedural history and identifying the rulings presented for review, with appropriate record references. Fed. R. App. P. 28(a)(6).
7. Summary of the Argument. Fed. R. App. P. 28(a)(7).
8. Argument, with applicable standards of review for each issue. Fed. R. App. P. 28(a)(8).
9. Conclusion, with statement of the relief sought. Fed. R. App. P. 28(a)(9).
10. Certificate of compliance for word or line limits. Fed. R. App. P. 28(a)(10) and 32(a)(7).
11. Addendum to the paper brief. 8th Cir. R. 28A(g)(4).

The contents of an appellee's brief and a reply brief are set out in Fed. R. App. P. 28(b) and (c). The court has instructed the clerk's office to carefully review the briefs and addenda for compliance with the rules. The clerk will contact counsel if defects are noted and provide counsel with an opportunity to correct the deficiencies. Failure to make the required corrections will result in the issuance of an order to show cause why the appeal should not be dismissed.

12. Other considerations. Unsealed briefs are available on PACER. As a result, it is counsel's responsibility to review the brief for materials which must be redacted. *See* 8th Cir. R. 25A(j). In particular, the names of child victims and witnesses must be redacted. The Addendum in a criminal case should not contain the Statement of Reasons or other confidential sentencing materials. *Anders* briefs are governed by 8th Cir. R. 27B(b).