

Requests should contain individual's full name, Social Security Number (SSN), current address, and telephone number.

CONTESTING RECORD PROCEDURES:

DIA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Regulation 12-12 "Defense Intelligence Agency Privacy Program"; 32 CFR part 319—Defense Intelligence Agency Privacy Program; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From subject individuals and DIA's security files and Human Resources Management System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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DEPARTMENT OF DEFENSE**Office of the Secretary**

[DoD-2007-OS-0033]

U.S. Court of Appeals for the Armed Forces Proposed Rules Changes

ACTION: Notice of Proposed Changes to the Rules of Practice and Procedure of the United States Court of Appeals for the Armed Forces.

SUMMARY: This notice announces the following proposed changes to Rule 24 of the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces for public notice and comment. New language is in bold print. Language to be deleted is marked by a strikethrough.

DATES: Comments on the proposed changes must be received by May 2007.

ADDRESSES: You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Following the instructions for submitting comments.

Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

Instructions: All submissions received must include the agency name and docket number of Regulatory Information Number (RIN) for the **Federal Register** document. The general policy for comments and other submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: William A. DeCicco, Clerk of the Court, telephone (202) 761-1448, ext. 600.

Dated: April 5, 2007.

L.M. Bynum,

Alternate OSD Federal Liaison Officer, DoD.

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PROPOSED CHANGES TO RULE 24*Rule 24. Briefs***Proposed Change 1:**

Amend the Paragraph "Statement of Facts" in Rule 24(a):

[Set forth a concise statement of the facts of the case material to the issue or issues presented, including specific page references to each relevant portion of the record of trial. Answers may adopt the appellant's or petitioner's statement of facts if there is no dispute, may state additional facts, or, if there is a dispute, may restate the facts as they appear from the appellee's or respondent's viewpoint. The repetition of uncontroverted matters is not desired.]

Proposed Change 2:

Add the following Paragraph after "Statement of Facts" in Rule 24(a):

References to the Record

[References to the parts of the record contained in the Joint Appendix filed with the appellant's brief must be to the pages of the Joint Appendix.]

Proposed Change 3:

Delete "Appendix" paragraph in Rule 24(a) and insert new Rule 24(f):

(f) Joint Appendix. The appellant or petitioner shall be responsible for filing eight copies of a Joint Appendix, which shall be a separate document filed contemporaneously with the brief.

(1) Contents. The Joint Appendix shall contain:

- (A) a copy of the decision of the Court of Criminal Appeals;
- (B) copies of unpublished opinions cited in the brief of the appellant or petitioner; the appellee or respondent will include copies of unpublished opinions cited in its brief as an attachment to its brief;
- (C) relevant extracts of rules and regulations;
- (D) relevant docket entries from the proceeding below;
- (E) relevant portions of the pleadings, charges, findings from the proceeding below; and
- (F) other parts of the record of trial to which the parties wish to direct the Court's attention set out in chronological order.

(2) Format. The Joint Appendix will be produced on 8 ½ by 11 inch white paper, be bound in a manner that is secure and does not obscure the text, and will permit the contents to lie reasonably flat when open. The cover must be white and contain the caption of the case and docket number. The cover shall be followed by a table of contents. Pages in the Joint Appendix shall be sequentially numbered in a manner that does not obscure any page numbers reflected in the record of trial. If the Joint Appendix consists of less than 100 pages, it may be reproduced by single-sided or double-sided copying. If it consists of 100 pages or more, the Joint Appendix shall use double-sided copying.

Classified material or matters under seal that are to be included in a Joint Appendix shall be submitted in a separate volume, clearly designated as containing classified or sealed material. Classified material will be handled in accordance with Rule 12.

(3) Deadline. Unless otherwise ordered by the Court, the Joint Appendix shall be filed contemporaneously with the brief of the appellant or petitioner. If a cross-appeal is filed, a single Joint Appendix shall be filed for both appeals subject to a briefing schedule established by the Clerk. The appellant or petitioner shall serve one copy on opposing counsel.

(4) Agreement and Designation. The parties are encouraged to agree on the contents of the Joint Appendix. In the absence of agreement, the appellant or petitioner must, within 10 days of the order granting the petition, the

filing of a certificate for review by a Judge Advocate General, the notice of the docketing of a mandatory review case, or the filing of a petition for new trial, petition for extraordinary relief or a writ appeal petition, serve on the appellee or respondent a designation of the issues to be raised on appeal and of the parts of the record to be included in the Joint Appendix. The appellee or respondent may, within 10 days after receiving the designation, serve on the appellant or petitioner a designation of the additional parts of the record to draw to the attention of the Court. The appellant or petitioner must include the parts designated by the appellee or respondent in the Joint Appendix. The parties must avoid engaging in unnecessary designation of parts of the record because unnecessary designation is wasteful, and the entire record is available to the Court. In the event a cross-appeal is filed, the deadlines for designations shall be established by the Clerk.

(5) Dispensing With Requirement. The Court, on its own motion or that of a party, may dispense with the requirement for a Joint Appendix and may permit a case to be heard on the original record with any copies of the record or parts thereof that the Court may order the parties to file.

Comment: The purpose of requiring a more comprehensive appendix prepared cooperatively by the parties and designated as a "Joint Appendix" is to assist the Court in identifying and readily obtaining the pages of the record of trial that are relevant to the issue or issues before the Court. Presently, without the requirement of a Joint Appendix, the chambers of each Judge of the Court is required to identify and then make its own copy of what each chambers believes are the relevant pages of the record, often without the familiarity with the case necessary to make this decision effectively. Counsel, however, have the familiarity with the record to prepare a Joint Appendix that will enable the Judges to commence efficient review when briefs are distributed. This change should enable each chambers to commence review sooner and more effectively.

It is anticipated that these changes to Rule 24, if adopted, will take effect on or about July 1, 2007, except that the provisions of Rule 24(f) (1) (D)-(F) will be delayed one year, to take effect on or about July 1, 2008. The

Court anticipates that during the one-year period from July 1, 2007, to July 1, 2008, it will require the appellant or petitioner to comply with Rule 24(f) (1) (D)-(F) by including in the Joint Appendix a list of the items stated in those sections to which the appellant or petitioner wishes to direct the Court's attention. During the same period, the appellee or respondent shall include with its brief a list of the items in those sections to which the appellee or respondent wishes to direct the Court's attention. The interim procedures should give counsel adequate time to take the necessary steps to allow for full compliance one year later.