

Expectations of Appointed Counsel in Fast Track Appeals

by Brad Bristow, CCAP Staff Attorney

If you are offered a dependency case that is designated as a Fast Track appeal, you need to be aware of the following:

Rule 8.416 [formerly rule 37.4]

The procedures for handling parental rights termination appeals are guided by rule 8.416. Extensions of time are granted only on a special showing of need. In our districts, time is usually only extended by 15 days after the filing of an augmentation or supplemental record. Also, in rule 8.416 cases, the Third District issues a “rule 8.416” memo announcing some of the local scheduling rules.

Oral Argument

Pursuant to rule 8.416 (h), oral argument is only set on Fast Track cases upon counsel’s request within 15 days of the time for filing the reply brief. In typical cases, the Third District will not send the attorney a questionnaire or oral argument waiver letter. In the past, the Fifth District has sent a memorandum in some Fast Track cases, but does not always do so.

Sade C. Filing

The *Sade C.* procedure in the Third and the Fifth differs a bit from the requirements in other districts. A letter is expected rather than a brief. The only required format of the letter is that it state that an opening brief will not be forthcoming. In the Fifth District, the client will be given 30 days to file a supplemental brief. In the Third District, the appeal will be dismissed immediately, so alternatives such as substituting the client in pro. per. should be considered before filing the *Sade C.* letter.

Claim Form

Time claimed for a *Sade C.* filing is treated as a *Wende* brief filing, and should be included on line 6 of the compensation form. (Other projects may treat *Sade C.* as an abandonment motion on line 5.)

Consultation With CCAP

Please consult with CCAP before filing a *Sade C.* letter or abandonment, whether or not the case is labeled a Fast Track case.

Article Originally posted at: <http://www.capcentral.org/resources/dependency/fasttrackappeal.aspx>