

United States Court of Appeals for the Fifth Circuit

ORDER
General Docket No. 2023-4

After providing public notice and considering public comments regarding a proposed rule change as required by 28 U.S.C. § 2071, the court hereby adopts the following amendment to the FIFTH CIRCUIT RULES (changes are in red):

5th Cir. R. 35.6:

Determination of Causes En Banc and Composition of En Banc Court. A cause will be heard or reheard en banc when it meets the criteria for en banc set out in FED. R. APP. P. 35(a).

The en banc court will be composed of all active judges of the court. Any senior circuit judge of this circuit shall be eligible (1) to participate, at his or her election and upon designation and assignment pursuant to 28 U.S.C. § 294(c) and the rules of this court, as a member of an en banc court reviewing a decision of a panel of which such judge was a member, or (2) to continue to participate in the decision of a case or controversy that was heard or reheard by the court en banc at a time when such judge was in regular active service. ~~plus any senior judge of the court who participated in the panel decision who elects to~~

~~participate in the en banc consideration. This~~ An election to participate
is to be communicated timely to the chief judge and clerk.

The amended rule is effective April 3, 2023.

Dated this 3rd day of April 2023.

Lyle W. Cayce, *Clerk*
United States Court of Appeals
for the Fifth Circuit
/s/ Lyle W. Cayce

ENTERED AT THE DIRECTION OF THE COURT