



Idaho Criminal Rule 54.1. Appeal by Permission from Interlocutory Orders of Magistrate Judges.

Idaho Criminal Rule 54.1. Appeal by Permission from Interlocutory Orders of Magistrate Judges.

(a) **Criteria for permission to appeal.** Permission may be granted by the district court to appeal from an interlocutory order or judgment of a magistrate court in a criminal action, which is not otherwise appealable under these rules, but which involves a controlling question of law as to which there is substantial grounds for difference of opinion and in which an immediate appeal from the order or decree may materially advance the orderly resolution of the litigation.

(b) **Motion to Magistrate Court--Order.** A motion for permission to appeal from an interlocutory order or judgment, upon the grounds set forth in subdivision (a) of this rule, shall be filed with the magistrate court within fourteen (14) days from date of entry of the order or judgment. The motion shall be filed, served, noticed for hearing and processed in the same manner as any other motion, and hearing of the motion shall be expedited. The magistrate court shall, within fourteen (14) days after the hearing, enter an order setting forth its reasoning for approving or disapproving the motion.

(c) Motion to District Court for Permission to Appeal.

(1) **Motion of a Party.** Within fourteen (14) days from entry by the magistrate court of an order approving or disapproving a motion for permission to appeal under subdivision (b) of this rule, any party may file a motion with the district court requesting acceptance of the appeal by permission. A copy of the interlocutory order or judgment being appealed shall be attached to the motion, along with a copy of the order of the magistrate court approving or disapproving the request for permission to appeal. If the magistrate court fails to rule upon a motion for permission to appeal within twenty-one (21) days from the date of the filing of the motion, any party may file a motion with the district court for permission to appeal without any order of the magistrate court.

(2) **Motion by order of court.** A magistrate court may enter, on its own initiative, an order recommending permission to appeal from an interlocutory order or judgment. The magistrate court shall file a certified copy of its order with the district court and serve copies on all parties. The order recommending permission to appeal shall constitute and be treated as a motion for permission to appeal from the interlocutory order or decree under this rule.

(3) **Procedure.** A motion to the district court for permission to appeal under this rule shall be made and



processed in the same manner as any other motion under Rule 47 of these rules and must be served upon all parties to the action.

(d) **Acceptance by District Court.** Any appeal by permission of an interlocutory order or judgment under this rule shall not be valid and effective unless and until the district court shall enter an order accepting such interlocutory order or decree as appealable and granting leave to a party to file a notice of appeal within a time certain. Unless otherwise ordered by the district court in its order of acceptance, such appeal shall thereafter proceed in the same manner as an appeal as a matter of right to the district court. The clerk of the district court shall serve a copy of the order granting permission to appeal on the magistrate court and on all parties to the action.

(e) **Denial by District Court.** An order of the district court denying permission to appeal from an interlocutory order or judgment entered by the magistrate court shall be final. No request for permission to appeal from an order or judgment entered by a magistrate court in a criminal action may be made to the Supreme Court.

(Adopted May 1, 2024; effective July 1, 2024.)

Source URL: <https://isc.idaho.gov/icr54-1>