

**United States Court of Appeals**  
FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130

January 27, 2011

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing or Rehearing En Banc

No. 09-20699, USA v. Mark Radley, et al  
USDC No. 4:08-CR-411

-----  
Enclosed is a copy of the court's decision. The court has entered judgment under FED. R. APP. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

FED. R. APP. P. 39 through 41, and 5<sup>th</sup> CIR. RULES 35, 39, and 41 govern costs, rehearings, and mandates. **5<sup>th</sup> CIR. RULES 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following FED. R. APP. P. 40 and 5<sup>th</sup> CIR. R. 35 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals . 5<sup>th</sup> CIR. R. 41 provides that a motion for a stay of mandate under FED. R. APP. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases . If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under FED. R. APP. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Sincerely,

LYLE W. CAYCE, Clerk

BY: *Jamei R. Cheramie*  
Jamei R. Cheramie, Deputy Clerk

Enclosures

Mr. Danny S Ashby  
Mr. Gregg Lewis Bernstein  
Ms. Gail M. Brownfeld

Ms. Erika L. Csicsilla  
Mr. Mark A. Flessner  
Mr. Kevin Michael Flynn  
Mr. David Benjamin Gerger  
Mr. Barry M. Hartman  
Mr. David Edward Hollar  
Ms. Jill Luschei Lansden  
Mr. Mitchell Baylor Lansden  
Mr. Douglas Ryan Miller  
Mr. Charles Roe Mills  
Mr. Jacks C Nickens Jr.  
Mr. David S. Rosenbloom  
Mr. James Lee Turner  
Mr. Roger Eric Zuckerman