

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

LYLE W. CAYCE  
CLERK

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600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130

January 31, 2017

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

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

Nos. 14-10857 Ralph Janvey v. James Alguire, et al  
USDC No. 3:09-CV-724  
14-10945 USDC No. 3:10-CV-1955  
14-11014 USDC No. 3:11-CV-1659  
14-11093 USDC No. 3:11-CV-292

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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. R.s 35, 39, and 41 govern costs, rehearings, and mandates. **5<sup>TH</sup> CIR. R.s 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.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that

this information was given to your client, within the body of your motion to withdraw as counsel.

The judgment entered provides that each party bear its own costs on appeal.

Sincerely,

LYLE W. CAYCE, Clerk



By: Allen C. McIlwain  
Allen C. McIlwain, Deputy Clerk

Enclosure(s)

Mr. Paul Gerard Alvarez  
Mr. Mark Joseph Barrera  
Mr. Kim Bernard Battaglini  
Mr. Monroe David Bryant Jr.  
Ms. Stephanie Frederique Cagniard  
Mr. Bradley Wayne Foster  
Mr. Jason Wayne Graham  
Mr. John J. Little  
Mr. Matthew Griffith Nielsen  
Mr. Michael L. O'Brien  
Mr. John C. Porter Jr.  
Mr. Scott Daniel Powers  
Ms. Carolyn Ruth Raines  
Mr. Dennis L. Roossien Jr.  
Mr. Kevin M. Sadler  
Mr. Brian N. Smiley  
Mr. Edward C. Snyder  
Mr. Michael John Stanley  
Mr. Theodore Brandon Welch  
Mr. Walter Perry Zivley Jr.