

**United States Court of Appeals**

FIFTH CIRCUIT  
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III  
CLERK

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

July 10, 2008

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

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

No. 07-20345 Wilson v. Barcella  
USDC No. 4:05-CV-3646

-----  
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.

The judgment entered provides that plaintiff-appellant pay to defendants-appellees the costs on appeal.

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By: Jamei Richey  
Jamei Richey, Deputy Clerk

- Enclosure  
Mr Steve W Berman  
Ms Barbara L Herwig  
Mr Howard S Scher  
Mr Nicholas Styant-Browne  
Mr Robert Stephen Bennett  
Mr Charles W Blau  
Mr Clayton C Cannon  
Mr Anthony P Daddino  
Mr Henry James Fasthoff IV

Mr Lawrence David Finder  
Mr T Ray Guy  
Ms Barbara L Hachenburg  
Ms Deborah J Jeffrey  
Mr Anthony A Lapham  
Mr Michael Eugene McCue  
Mr Matthew Dempsey McGill  
Mr John Moustakas  
Mr Theodore B Olson  
Mr Brian Wesley Portugal  
Ms Elissa J Preheim  
Mr Anand S Raman  
Mr Carl S Rauh  
Mr John Townsend Rich  
Mr Michael Sean Royall  
Mr Kent Geoffrey Rutter  
Ms Melinda Marie Sarafa  
Mr Charles W Schwartz  
Mr Casey T Wallace  
Mr Mark S Whitburn