

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

NOTICE OF PROPOSED AMENDMENT
TO LOCAL RULE 34(b)

PLEASE TAKE NOTICE that the Court intends to amend Local Rule 34(b) to conform to new Local Rule 22(a).

The proposed amendment to Local Rule 34(b) addresses the situation where a motion for certificate of appealability is filed before an informal briefing order has issued. In this situation, the Court will not automatically establish an informal briefing schedule, but will first rule on the motion for certificate of appealability.

The proposed amendment also specifies that the informal briefing procedures apply only in non-capital cases.

The proposed amendment will take effect on October 9, 2003, subject to revision in light of any comments received. Interested parties may submit comments on or before October 8, 2003, to:

Patricia S. Connor, Clerk
U.S. Court of Appeals for the Fourth Circuit
1100 E. Main Street, Suite 501
Richmond, Virginia 23219

August 8, 2003

Date

/s/ Patricia S. Connor

Clerk

Local Rule 34(b). Informal Briefs.

Whenever the Court determines pursuant to Local Rule 22(a) that briefing is appropriate on an appeal in a non-capital case from the denial of a writ of habeas corpus or of a motion under 28 U.S.C. §2255, Whenever an application for a certificate of appealability from the denial of a writ of habeas corpus or a motion under 28 U.S.C. §2255 is filed, or whenever any pro se appeal is filed from any other type of judgment or order, the clerk shall notify the appellant that appellant shall file, within twenty-one days after receipt of such notice, an informal brief, listing the specific issues and supporting facts and arguments raised on appeal. Appellant's informal brief and any informal brief filed by appellee shall be considered, together with the record and other relevant papers, by the panel to which the proceeding has been referred. The Court will limit its review to the issues raised in the informal brief.

The informal brief may be submitted on a form provided by the clerk and shall provide the specific information required by the form. The parties need not limit their briefs solely to the form. An additional supporting memorandum may be attached if a party deems it necessary in order to address adequately the issues raised, but the briefs with any attachments shall not exceed the length limitations established by FRAP 32(a)(7). It is not necessary to cite cases in an informal brief. Two copies of the brief and attachments, if any, must be filed with the Court and a copy mailed to opposing counsel.

Once an informal briefing schedule has been established the parties may file a formal brief only with the permission of the Court. The Court initially reviews cases that are informally briefed under its procedures set forth in Local Rule 34(a) pertaining to pre-argument review.

If the panel reviewing an informal brief submitted by an indigent pro se litigant determines that further briefing and possible oral argument would be of assistance, counsel will be appointed and directed to file additional formal briefs. In any appeal that has been informally briefed, the Court may direct that additional briefs be filed prior to oral argument.