

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

THURGOOD MARSHALL UNITED STATES COURTHOUSE AT FOLEY SQUARE
40 Centre Street
New York, NY 10007
(212) 857-8500

NOTICE OF RULE CHANGES

The United States Court of Appeals for the Second Circuit hereby gives notice of interim changes and proposed permanent changes in its Local Rules, and invites comment thereon. The new rules will go into effect as Interim Rules on Thursday, May 1, 2003. Comments should be submitted in writing no later than Monday, June 30, 2003. Comments may be mailed to, or filed with:

Roseann B. MacKechnie
Clerk of Court
United States Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
40 Centre Street, Room 1802
New York, NY 10007

Second Circuit Local Rule 22(a) is amended as follows:

Local Rule 22. Certificate of Appealability

(a) Prompt Application and Contents of Motion. In cases governed by 28 U.S.C. § 2253 and FRAP Rule 22(b), where an appeal has been taken but no certificate of appealability ("COA") has been issued by the district judge or by this court or a judge thereof, the appellant, ~~except as provided in § 27(d) of the rules of this court,~~ shall promptly move in this court for such a certificate. Such motion ~~shall be made as provided in FRAP Rule 27~~ shall identify each issue that the appellant intends to raise on appeal and shall state, with respect to each issue, facts and a brief statement of reasons showing a denial of a constitutional right. When an appeal is filed for which a COA is required and a motion that complies with this rule has not been filed within 30 days after filing the notice of appeal, the clerk shall promptly send the appellant a letter enclosing a copy of this rule and informing the appellant that the required motion for a COA must be filed with the court within 21 days and that failure to file the motion may result in denial of a COA. The motion will be submitted without oral argument. The court will ordinarily limit its consideration of the motion to the issues identified therein. Such an appeal may not proceed unless and until a certificate is granted.

Subsection (j) is added to Second Circuit Local Rule 27.

Local Rule 27. Motions

(j) Motions by Pro Se Appellant. A motion filed by a pro se appellant (including, but not limited to, a motion for leave to appeal in forma pauperis, for appointment of counsel, or for a transcript at public expense) shall identify each issue that the appellant intends to raise on appeal and shall state, with respect to each issue, facts and a brief statement of reasons showing that the issue has likely merit. When a motion filed by a pro se appellant does not comply with this rule, the clerk shall promptly send the appellant a letter enclosing a copy of this rule and informing the appellant that (1) the required identification of issues and supporting facts and reasons must be filed with the court within 21 days, and (2) if the appellant fails to file the required statement, or if the court determines on considering the appellant's statement that the appeal is frivolous, the court may dismiss the appeal. The motion will be submitted without oral argument. The court will ordinarily limit its consideration of the motion to the issues identified therein.

Roseann B. MacKechnie
Clerk of the Court

Dated: April 24, 2003