

decision to certify extradition in this reviewed.

5. Simultaneously with filing the petition for a writ of habeas corpus, [REDACTED] filed a motion seeking a stay of the order certifying his extradition. Such motion was granted on [REDACTED] and the extradition certification order stayed pending a decision of the habeas petition.

6. On [REDACTED] this court entered an order denying petitioner's application, without prejudice, and ordering that the Secretary of State and the government provide petitioner with notice of any decision to honor the extradition request of [REDACTED] in order that petitioner might refile his application.

7. On [REDACTED] the respondents requested the court to reconsider the portion of its order requiring that notice of a decision to grant the extradition request be provided to petitioner.

8. The request of respondents for reconsideration was denied on [REDACTED]

9. The respondents filed a Notice of Appeal to the Fourth Circuit Court of Appeals on [REDACTED]

10. On [REDACTED] counsel for petitioner inquired of the Clerk of the Fourth Circuit Court of Appeals considering a briefing order and learned that the court had no record of the appeal in this matter.

11. Notice of the appeal was not transmitted to the Fourth Circuit until after counsel's inquiries on [REDACTED]

12. The delay in transmitting notice of the appeal has unnecessarily prolonged these proceedings and has increased the time petitioner has had to remain in custody during the pendency of this action.

13. Rule 3(a)(2) of the Federal rules of Appellate Procedure provides that “ an appellant’s failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the court of appeals to act as it considers appropriate, including dismissing the appeal.”

14. Local Rule 3(b) of the Fourth Circuit Court of Appeals provides that a docketing statement must be filed and received in the Office of the Clerk for the Fourth Circuit within 14 days of filing the notice of appeal.

15. In the present case, the respondent/appellant has taken no action in this matter other than filing a timely notice of appeal. A docketing statement has not been filed pursuant to Local Rule 3(b) with the Office of the Clerk for the Fourth Circuit or served on counsel for petitioner/appellee.

16. Had respondents/appellants been diligent in pursuing its appeal in this matter, the steps required under the Federal Rules of Appellate Procedure and the Fourth Circuit’s Local Rules would have been taken and the delay of two months in transmitting notice of the appeal to the Fourth Circuit would likely not have occurred or been as long.

WHEREFORE, the petitioner/appellee respectfully requests that an order issue dismissing the appeal filed by respondents/appellants in this matter.

This the ___ th day of [REDACTED]

[REDACTED]

FEDERAL PUBLIC DEFENDER

[REDACTED]

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NCSB # [REDACTED]

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Motion to Dismiss Appeal
was served upon the United States by hand delivering a copy to Assistant United States Attorney
[REDACTED] at P.O. Box 1858, Greensboro, NC 27402 or mailing by United States mail.

This the [REDACTED]

[REDACTED]
Assistant Federal Public Defender