

United States Court of Appeals for the Tenth Circuit
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June 4, 2007

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

JUN 18 2007

MATTHEW J. DYKMAN
CLERK

Ms. Bernadette Sedillo
Bank of the West
201 N. Church St.
Suite 330
Las Cruces, NM 88001

Re: 07-2137, United States v. Quaintance
Dist/Ag docket: CR-06-538-JH

Dear Counsel:

This appeal was docketed today. For your convenience, copies of the Tenth Circuit Rules, effective January 1, 2006, and the Federal Rules of Appellate Procedure, effective December 1, 2005, are available on the court's website at www.ca10.uscourts.gov. You may also obtain a copy of the rules by calling this office. We invite you to contact us with any questions you may have about our operating procedures. Outlined below are some of the requirements for prosecuting this appeal.

Enclosed is an entry of appearance form. Attorneys must complete and file this form within ten days of the date of this letter. 10th Cir. R. 46.1(A). Pro se parties must complete and file the form within thirty days of the date of this letter. Appellant's failure to enter an appearance may cause the appeal to be dismissed. An appellee who fails to enter an appearance may not receive notice or service of orders.

In this court, an attorney who files a notice of appeal has entered an appearance; consequently, that attorney may not withdraw without the court's permission. Please note this court also requires all counsel to file a separate entry of appearance form. For criminal appeals, the court will require trial counsel to continue the representation whether retained or appointed, and even if counsel did not sign the notice of appeal. See 10th Cir. R. 46.3(A). This continuity of counsel ensures that any criminal defendant who wishes to appeal has that appeal perfected.

Generally, the court will not allow counsel to withdraw until the docketing statement is filed, necessary transcripts have been ordered, and the designation of record is submitted. If there is an issue regarding the defendant's eligibility for the appointment of counsel, an appropriate motion must be filed in the district court. See 10th Cir. R. 46.4(A).

You are required to file a docketing statement within 10 days of filing the notice of appeal. If you have not yet filed that pleading, you should do so within 10 days of the date of this letter. Please note that under local rule 3.4(C), the appellant is not limited to the issues identified in his docketing statement and may raise other appropriate issues in the opening brief. In addition to the docketing statement, all transcripts must be ordered within 10 days of the date of this letter. If no transcript is necessary, you must file a statement to that effect.

As appointed counsel, you are required to file a designation of record with the district court. You must also serve this court and opposing counsel with a copy. Under 10th Cir. R. 10.2(A)(1), that designation must be filed within 10 days of filing the notice of appeal. If you have not done so already, you should file the designation immediately.

Under local rule 10.2(A)(2), the government may file an additional designation within 10 days after service of appellant's. Once that time passes, the district court will complete assembly of the record. The district court clerk will transmit the record to this court and will notify the parties. See Fed. R. App. P. 11(b); 10th Cir. R. 11.2(A).

The opening brief is due forty days after the appellate record is filed. See Fed. R. App. P. 31(a)(1); see also 10th Cir. R. 31.1(A). We will notify you by letter when that happens. Likewise, at that time, the Circuit will appoint you formally under the Criminal Justice Act. This formality ensures that you can receive compensation under the Criminal Justice Act for your efforts in this appeal.

With regard to briefing, please note that you must satisfy all the requirements of Fed. R. App. P. 28 and 32. In addition, please review Tenth Circuit local rules 28.1, 28.2, 32.1 and 31.3. An original and 7 copies of the brief must be filed. Starting December 1, 2004 you must also comply with the court's General Order Regarding Electronic Filing, dated October 20, 2004. You may find the order on the court's website. In addition, please note the requirements for filing an appendix if you are retained counsel. They can be found in Tenth Circuit local rule 30.1. Finally, please reference 10th Cir. R. 27.3 for requirements regarding motions for extension of time.

Thank you very much for your service to the court in your role as appointed counsel. If you are unfamiliar with the court's procedures or have questions, please call this office. In addition, you might also call the Appellate Division, created by the court to handle appeals circuit-wide, of the Office of the Federal Public Defender in Denver. That number is 303-294-7002. One of the appellate assistants will be happy to help you.

Please contact this office if you have questions.

Sincerely,

Elisabeth A. Shumaker
Clerk, Court of Appeals

By: Deputy Clerk

clk:klp

cc: Luis Armando Martinez
Jerry Daniel Herrera
John F. Robbenhaar
Leon Schydlower
Matthew J. Dykman, Clerk