

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
UNITED STATES COURTHOUSE
1100 COMMERCE STREET, ROOM 1376
DALLAS, TEXAS 75242

RECEIVED
3/4/03

03-CR-B

WM. F. SANDERSON JR.
U.S. MAGISTRATE JUDGE

February 24, 2003

PHONE (214) 753-2385
FAX (214) 753-2390

Peter G. McCabe
Committee on Rules of Practice and Procedure
Administrative Office of the U.S. Courts
OJP AD/4-180
One Columbus Circle, NE
Washington, D.C. 20544

Dear Mr. McCabe:

I am writing to request that the Advisory Committee on Criminal Rules consider amending Federal Rule of Criminal Procedure 32.1(a)(5)(B)(i) which requires that the government produce certified copies of the judgment, warrant and warrant application relating to a probation or supervised release arrestee charged in another district.

The provisions of Rule 32.1 apply to such an individual by virtue of the provisions of amended Rule 5(a)(2)(B).

In the case of a person arrested on an out-of-district criminal complaint, facsimiles of the underlying charging documents are permitted. See Rule 5(c)(3)(D)(i). It is indeed anomalous that the authentication of documents with reference to a person who has already been convicted of a federal crime must satisfy a higher standard than those supporting a pending charge against an arrestee.

I can perceive of no rational reason for such a higher standard and apprehend that it is based on a mere oversight based upon the vast amount of material the Committee had to review in drafting the amendments which became effective December 1, 2002.

On a purely pragmatic level I would make the following observations:

1. More often than not an out-of-district probation (supervised release) violator is an absconder from jurisdiction of the distant district and is apprehended as a result of an NCIC "hit" following a local arrest. Therefore it is unlikely in the extreme that the clerk or the United States Marshal in the district of arrest has certified copies at the time of arrest.

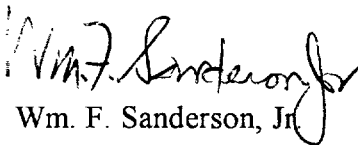
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2. Since the arresting district court has no jurisdiction over such an offender the delay in obtaining certified copies simply impedes the ultimate return of the offender to the issuing court, which benefits no one including the arrestee. Although Rule 32.1(a)(6) permits release on bond, it is highly unlikely that an absconder can discharge the burden imposed.

3. The standard in Rule 5(c)(3)(D)(i) is sufficient to protect the interests of an out-of-district probation (supervised release) violator - assuming no issue regarding identity. In nearly 24 years I have never confronted a situation in which facsimile copies of documents differed one iota from the original or certified copies.

Thank you for your consideration and that of the Advisory Committee.

Very truly yours,


Wm. F. Sanderson, Jr.