

FILED: June 20, 2008

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-4358
(1:05-cr-00225-TSE)

UNITED STATES OF AMERICA,

Plaintiff - Appellant,

v.

STEVEN J. ROSEN; KEITH WEISSMAN,

Defendants - Appellees.

No. 08-4410
(1:05-cr-00225-TSE)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STEVEN J. ROSEN; KEITH WEISSMAN,

Defendants - Appellants.

O R D E R

The Government has filed a notice of appeal in which it seeks to appeal the district court's memorandum opinion and order

entered on August 10, 2006; the district court's order denying the Government's motion for clarification, entered on November 20, 2006; the district court's memorandum opinion entered on November 2, 2007; and the district court's order entered on March 20, 2008.

Appellees filed a cross-appeal of the same orders and opinions, and moved to dismiss the Government's appeal of all but the March 20, 2008, order. The Government then moved to dismiss Appellees' cross-appeal in its entirety.

Upon consideration, the court grants the Appellees' motion to dismiss the Government's appeal of all but the March 20, 2008, order. The court grants the Government's motion to dismiss the Appellees' cross-appeal. The Government's appeal (No. 08-4358) may proceed only as to the district court's order entered March 20, 2008.

Entered at the direction of Judge Traxler with the concurrence of Judge Shedd and Senior Judge Wilkins.

For the Court

/s/ Patricia S. Connor

Clerk

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

BRIEFING ORDER-CRIMINAL/GRAND JURY

No. 08-4358, US v. Steven Rosen, et al
1:05-cr-00225-TSE-1

The Briefs and Appendix shall be served and filed within the time provided in the following schedule:

Appellant's Opening Brief and Appendix due: 07/25/2008

Appellee's Response Brief due: 08/18/2008

Reply Brief permitted within 10 calendar days of service of Response Brief

The Briefs and Appendix must conform to the [Rule Requirements for Preparation of Briefs and Appendices](#) and the [Fourth Circuit Checklist for Briefs and Appendices](#), which set forth the applicable [Federal and Local Rules](#). These documents are available as links from this order and at the Court's web site, www.ca4.uscourts.gov.

All parties to a side must join in a single brief, even in consolidated cases, unless the Court has granted a motion for leave to file separate briefs pursuant to Local Rules 28(a) and 28(d). Each side must notify the court of the attorney who has been designated as lead counsel within 10 days of the date of this order. A governmental and a non-governmental party are not, however, required to join in one brief.

Failure to file an Opening Brief within the scheduled time may lead to imposition of sanctions against court-appointed counsel or dismissal of the case pursuant to Local Rule 45 for failure to prosecute; failure to file a Response Brief will result in loss of the right to be heard at oral argument and may lead to imposition of sanctions if counsel has failed to comply with the court's directives. The Court discourages motions for extension of time and grants extensions of the briefing schedule only in

extraordinary circumstances upon a showing of good cause. Local Rule 31(c). If a brief is filed after its due date, the time for filing briefs in the schedule will be extended by the number of days the brief was late.

Failure to file an adequate Appendix containing all portions of the record necessary for review of the issues will result in the return of the Appendix for correction; deficiencies generally will not be remedied by reference to the record. The party at fault will be required to bear the cost of filing a Corrected Appendix regardless of the outcome of the case.

Pursuant to Local Rule 34(a), the Court may, on its own initiative and without prior notice, screen an appeal for decision on the parties' briefs without oral argument. If a case is selected for the oral argument calendar, counsel will receive notice that the case has been tentatively calendared for a specific court session approximately 45 days in advance of the session. Counsel will be afforded 10 days to file any motions that would affect the argument of the case. All parties to a side must share the time allotted for oral argument pursuant to Local Rules 28(d) and 34(d).

Anders Procedures: If defendant's counsel finds no appealable issue and therefore intends to file a brief under Anders v. California, 386 U.S. 738 (1967), the following procedures apply: (1) because counsel and the Court must review the entire record in an Anders appeal, counsel must order all transcript (with the hearings); (2) if the Anders brief is being filed in a consolidated case in which co-defendants are not proceeding under Anders, counsel must prepare a separate Opening Brief and move to deconsolidate the Anders appeal; (3) an Anders brief that simply states there are no appealable issues is insufficient--rather, counsel's Opening Brief must identify any arguable issues with appropriate record citations and state, in a brief discussion with case citation, why such issues lack merit; (4) the certificate of service for counsel's Anders brief must state that the brief was served on the defendant and that the defendant was informed of the right to file an Anders Pro Se Brief raising additional issues; (5) if the defendant is non-English speaking, counsel must arrange for a translator to assist in translation of documents and translation of any pro se brief; (6) since the Court must review the entire record, an Appendix is permitted but not required in Anders cases.

/s/ PATRICIA S. CONNOR, CLERK
By: Sarah A. Carmichael, Deputy Clerk