

File

To: Owen Fiss

From: David Marblestone
ABM

Re: Mandate in Alabama v. Gardner

The September 25, 1967 order of the court of appeals, staying its mandate, states that the clerk shall issue the mandate upon the filing of an order of the Supreme Court denying certiorari. Assuming certiorari is denied, this should mean that when the court of appeals receives a copy of the Supreme Court order, the mandate will ~~ordinarily~~ be sent to the district court. (Under Rule 32 of the Fifth Circuit rules, the mandate ordinarily consists of the judgment and the opinion of the court of appeals.)

In answer to your specific question, it will be necessary for the clerk of the Fifth Circuit to send the appropriate documents to the district court.

November 16, 1967