

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-60385
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHAEL G. ROBERTS,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:00-CV-174-WS

February 22, 2001

Before SMITH, BENAVIDES, and DENNIS Circuit Judges.

PER CURIAM:*

Michael G. Roberts appeals the district court's denial of his motion for release on bond pending the disposition of his 28 U.S.C. § 2255 motion. Release on bail should be granted to a prisoner pending post-conviction habeas review "only when the petitioner has raised substantial constitutional claims upon which he has a high probability of success, and also when extraordinary or exceptional circumstances exist which make the grant of bail necessary to make the habeas remedy effective." Calley v. Callaway, 496 F.2d 701, 702 (5th Cir. 1974). Examples

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

of "extraordinary circumstances" include the serious deterioration of the petitioner's health while incarcerated, short sentences for relatively minor crimes so near completion that extraordinary action is essential to make collateral review truly effective, and extraordinary delay in processing a habeas petition. See id. at 702 n.1.

Regardless of the merits of Roberts' claims, on which the district court has not yet ruled, Roberts has failed to show the existence of any "extraordinary or exceptional circumstances" necessitating his release on bond to make the post-conviction remedy effective. Because Roberts' allegations thus do not justify a grant of release on bail pending determination of the merits of his § 2255 motion, the district court did not err by denying Roberts' motion for bond. See id. at 703.

AFFIRMED.