

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 18-20531
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 1, 2018

Lyle W. Cayce
Clerk

REGINALD NELSON,

Petitioner-Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:17-CV-2409

Before KING, SOUTHWICK, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Reginald Nelson appeals the district court's denial of his motion for release pending resolution of a 28 U.S.C. § 2254 application. Release was proper if Nelson "raised substantial constitutional claims upon which he has a high probability of success" and "extraordinary or exceptional circumstances exist which make the grant of bail necessary to make the habeas remedy

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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effective.” *Calley v. Callaway*, 496 F.2d 701, 702 (5th Cir. 1974). Extraordinary circumstances exist, for example, where there has been a “serious deterioration of the petitioner’s health while incarcerated”; where a short sentence for a relatively minor crime is “so near completion that extraordinary action is essential to make collateral review truly effective”; and possibly where there has been an “extraordinary delay in processing a habeas corpus petition.” *Id.* at 702 n.1.

We need not address the merits of Nelson’s claims, which remain pending before the district court, because he has not demonstrated extraordinary or exceptional circumstances that necessitate his release. *See Calley*, 496 F.2d at 702. Accordingly, the district court did not abuse its discretion by denying Nelson’s motion for release without a hearing. The district court’s order is AFFIRMED. To the extent Nelson seeks to challenge the denial of his motions for appointment of counsel, he has not appealed those orders.