

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-7709  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBERT CLYDE TUBWELL,  
a/k/a ROBERT EARL TUBWELL,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. CR-J76-0020(b)(1)  
- - - - -

August 17, 1993

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:\*

Tubwell is appealing the denial of his motion to show cause why his federal sentence should not be finally discharged. Tubwell alleges that he was denied due process because the Parole Commission failed to promptly initiate parole-revocation proceedings, precluding him from serving his federal sentence concurrently with an intervening state sentence.

A federal parolee is not constitutionally entitled to an immediate parole-revocation hearing to enable him to serve the

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

sentence imposed as a result of the parole violation concurrently with an intervening sentence on another charge. Moody v. Daggett, 429 U.S. 78, 85, 97 S.Ct. 274, 50 L.Ed.2d 236 (1976). This is the case even if the sentencing judge orders that the intervening sentence be served concurrently with the sentence imposed for the parole violation. Tijerina v. Thornburgh, 884 F.2d 861, 864 (5th Cir. 1989). The Parole Commission has the exclusive jurisdiction to determine whether a parole violator term which it imposes will run concurrently or consecutively with a second sentence. Id.

The other issues raised by appellant were not presented to the district court and will, therefore, not be considered. United States v. Smith, 915 F.2d 959, 964 (5th Cir. 1990).

The order of the district court, denying Tubwell's motion to show cause why defendant should not be finally discharged from sentence, is AFFIRMED.