

UNITED STATES COURT OF APPEALS  
for the Fifth Circuit

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No. 94-50545  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

SHERRILL P. LANDES,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
(SA-94-CR-77(1))

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(October 14, 1994)

Before GARWOOD, HIGGINBOTHAM and DAVIS, Circuit Judges.

PER CURIAM:<sup>1</sup>

Landes appeals the district court's order refusing to set bond and set aside its detention order. We find no abuse of discretion and affirm.

In March 1994, the magistrate judge ordered Sherrill Landes detained pending trial after finding that Landes was a flight risk and a danger to others. On July 19, Landes filed his first amended motion to set bond based on his medical problems and the alleged

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<sup>1</sup> 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 Pursuant to that Rule, the court has determined that this opinion should not be published.

violation of the Speedy Trial Act, 18 U.S.C. § 3164. The district court denied Landes' motion and this appeal followed.

Landes first contends that his continued detention violates 18 U.S.C. § 3164, which provided that a defendant who is detained pending trial must be tried within ninety days of his incarceration or released from custody. Section 3164 became ineffective on July 1, 1980, when the provisions of 18 U.S.C. § 3162 took effect. 18 U.S.C. § 3163(c); **see United States v. Krohn**, 558 F.2d 390, 393 (8th Cir.) (effective date of § 3162 then was July 1, 1979), **cert. denied**, 434 U.S. 868 (1977). Section 3162 provides for the dismissal of an indictment when the Speedy Trial Act is violated. 18 U.S.C. § 3162(a)(1), (2). This court lacks jurisdiction to consider interlocutory appeals of denials of Speedy Trial Act rulings. **United States v. Crawford Enterprises, Inc.**, 754 F.2d 1272, 1273 (5th Cir. 1985).

Landes argues next that his continued detention violates due process. In a thorough detention order, the magistrate judge found that Landes posed a risk of flight and a risk of harm to potential witnesses. Because Landes did not seek review of the magistrate judge's detention order in the district court, this court lacks jurisdiction to consider it. **Colburn v. Bunge Towing, Inc.**, 883 F.2d 372, 379 (5th Cir. 1989) (noting that law is settled that appellate courts lack jurisdiction to hear appeals directly from federal magistrates).

Because Landes raises no issue of arguable merit, the appeal is frivolous. **Howard v. King**, 707 F.2d 215, 219-20 (5th Cir. 1983). It therefore is dismissed.

APPEAL DISMISSED.