

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 99-41009

In Re: THOMAS G. LINDENMUTH
Petitioner

Petition for Writ of Mandamus to the United States
District Court for the Southern District of Texas

September 22, 1999

Before DUHÉ, EMILIO M. GARZA and DeMOSS, Circuit Judges.

PER CURIAM:

Having carefully considered the Petition for Mandamus, the Reply thereto and the applicable law, we hold that, under the particular facts of this case, there was no miscarriage of justice and no right of any criminal defendant was affected, nor would have been affected, because each Defendant had consented in writing to the substitution of defense counsel, substitute defense counsel was present and prepared to proceed, and in fact did proceed. It was, therefore, an abuse of discretion to order Petitioner taken into custody and brought to court. Accordingly,

IT IS ORDERED that the district court's order to take Petitioner into custody is hereby VACATED, and the Petition for Mandamus is DENIED as unnecessary.

IT IS FURTHER ORDERED, that the stay previously granted is hereby VACATED.

ORDER VACATED, MANDAMUS DENIED, STAY VACATED.