

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-41012
USDC No. C-91-CV-356

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RALPH COLE,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
- - - - -

June 25, 1996

Before KING, WIENER and DeMOSS, Circuit Judges.

PER CURIAM:*

A movant for in forma pauperis (IFP) status on appeal must show that he is a pauper and that he will present a non-frivolous issue on appeal. Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982).

Release on bail will be granted only when the petitioner has raised a substantial constitutional claim upon which he has a high probability of success, and also when extraordinary or

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

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). Extraordinary circumstances include (1) a serious deterioration of a movant's health while incarcerated, (2) short sentences for relatively minor crimes so near completion that extraordinary action is necessary to make collateral review effective, and (3) extraordinary delay in processing a § 2255 motion. Id. at 701 n.1.

Regardless of the merits of Ralph Cole's claims, upon which the district court has not yet ruled, Cole 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 Cole's allegations do not justify a grant of release on bail pending determination of the merits of his § 2255 motion, see id. at 703, the district court did not err by denying Cole's motion for bond. Therefore, he has failed to present a nonfrivolous issue on appeal

IFP DENIED. APPEAL DISMISSED.