

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

United States Court of Appeals
Fifth Circuit

FILED

April 9, 2009

No. 07-60748

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

JOHN H WHITFIELD; PAUL S MINOR; WALTER W TEEL

Defendants - Appellants

Appeal from the United States United States District Court for the Southern
District of Mississippi, Jackson

Before GARWOOD, BENAVIDES, and HAYNES, Circuit Judges.

ORDER:

IT IS ORDERED that the motion of appellant, Paul S. Minor for release pending appeal pursuant to the federal bail provisions of 18 U.S.C. § 3143(b)(1), is DENIED.

A member of this court has previously denied release pending appeal. Since that time, oral argument has been submitted and the case has been submitted to a panel of this court. Appellant, Paul S. Minor renews his request. The principal change in circumstances since release was denied on Minor's prior motion is that his wife of 41 years has been diagnosed with terminal brain cancer and her condition is rapidly deteriorating. A treating physician opined that her death is imminent. Such dire circumstances would seem to warrant a

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temporary release under the provisions of 18 U.S.C.A. § 3622(a)(1) or (a)(2). However, the decision to release under § 3622 is committed to the Bureau of Prisons and not this court.¹

Release pending appeal is DENIED.

¹ The Bureau of Prisons has delegated its discretion under § 3622 to the Warden of the particular institution in which the prisoner is incarcerated. 28 C.F.R. § 570.32(a)(1)(1992).