UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7368

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SHAWN ELIELY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Newport News. Raymond A. Jackson, District Judge. (4:04-cr-00078-RAJ)

Submitted: April 16, 2008 Decided: May 2, 2008

Before NIEMEYER and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Shawn Eliely, Appellant Pro Se. Scott W. Putney, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Newport News, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Shawn Eliely appeals the district court's order denying his motion for release on recognizance or bail pending the court's consideration of Eliely's post-conviction motion filed under 28 U.S.C. § 2255 (2000).[1] Before a prisoner may be released on bail pending a collateral attack on his conviction, he must show substantial constitutional claims on which he has a high probability of success, and exceptional circumstances making a grant of bail necessary for the habeas remedy to be effective. See Lee v. Jabe, 989 F.2d 869, 871 (6th Cir. 1993); Calley v. Callaway, 496 F.2d 701, 702 (5th Cir. 1974). Eliely fails to meet this standard. Accordingly, we affirm the district court's order.[2]

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

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[1]We have jurisdiction over this appeal under the collateral order doctrine. See Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-57 (1949).

[2]We also deny Eliely's motion to expedite as moot and deny his motion for summary relief.