

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

United States Court of Appeals  
Fifth Circuit

**FILED**

August 18, 2009

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No. 09-40679  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DAVID ALLAN VOGEL,

Defendant-Appellant

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:08-CR-224-1

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Before JOLLY, WIENER, and ELROD, Circuit Judges.

PER CURIAM:\*

Defendant-Appellant David Allan Vogel appeals from the district court's order revoking his pretrial release and ordering his detention pending trial pursuant to 18 U.S.C. § 3148(b). After reviewing the record, we have determined that the district court's order revoking pretrial release is supported by the proceedings below and the factual basis of the decision is not clearly erroneous. *See United States v. Aron*, 904 F.2d 221, 223 (5th Cir.1990). We therefore affirm the order of detention pending trial and revoking pretrial release. Vogel's

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

motion for release pending appeal pursuant to Federal Rule of Appellate Procedure 9(a)(3) is DENIED.

AFFIRMED.