

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

BRIAN KEITH COURTNEY, SR., #444293,

Petitioner,

Civil No. 09-10842-BC

v.

Honorable Thomas L. Ludington

DEBRA L. SCUTT,

Respondent.

ORDER DENYING PETITIONER'S MOTION FOR RELEASE ON BOND

Petitioner Brian Keith Courtney, Sr., a Michigan prisoner, seeks the issuance of a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges his plea-based convictions for conducting a criminal enterprise, Mich. Comp. Laws § 750.159i(1), and obstruction of justice, Mich. Comp. Laws § 750.505. This matter is before the Court on Petitioner's motion for release on bond pending the resolution of his habeas petition. In support of his request, Petitioner states that his case has been pending for a lengthy period, he is neither a flight risk nor a danger to the community, and his habeas claims have merit.

The United States Court of Appeals for the Sixth Circuit has stated that to receive bond pending a decision in a federal habeas case,

prisoners must be able to show not only a substantial claim of law based on the facts surrounding the petition but also the existence of 'some circumstance making [the motion for bail] exceptional and deserving of special treatment in the interests of justice.' *Aronson v. May*, 85 S. Ct. 3, 5; 13 L. Ed. 2d 6, 9 (1964) [additional citations omitted]. There will be few occasions where a prisoner will meet this standard.

Lee v. Jabe, 989 F.2d 869, 871 (6th Cir. 1993) (quoting *Dotson v. Clark*, 900 F.2d 77, 79 (6th Cir. 1990)). Federal district courts may grant bail when granting the writ. *Sizemore v. District Ct.*, 735

F.2d 204, 208 (6th Cir. 1984). However, to grant bond prior to making a determination on the merits is extraordinary. *See Moore v. Egeler*, 390 F. Supp. 205, 207 (E.D. Mich. 1975) (Feikens, J.). Having considered the matter, the Court is not persuaded that the interests of justice require that Petitioner be released on bond pending the resolution of this case.

Accordingly, it is **ORDERED** that Petitioner's motion for release on bond [Dkt. # 21] is **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: May 3, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and upon Brian Courtney, #444293 at Lakeland Correctional Facility, 141 First Street, Coldwater, MI 49036 by first class U.S. mail on May 3, 2011.

s/Tracy A. Jacobs
TRACY A. JACOBS