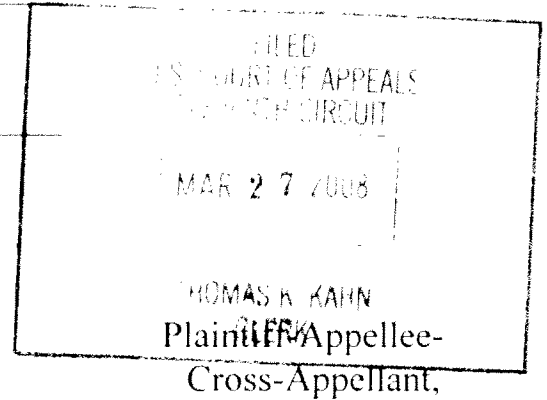


IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 07-13163-B



UNITED STATES OF AMERICA,

versus

DON EUGENE SIEGELMAN,
RICHARD SCRUSHY,

Defendants-Appellants-
Cross-Appellees.

Appeal from the United States District Court
for the Middle District of Alabama

Before TJOFLAT and ANDERSON, Circuit Judges.

BY THE COURT:

Now before the Court is appellant Scrusy's motion for reconsideration of our January 7, 2008, order denying his motion for release on bond pending appeal.

As we stated in our January 7 order:

"[a] defendant who is sentenced to a term of imprisonment bears the burden of showing that he is entitled to release pending appeal under

the criteria established by 18 U.S.C. § 3143(b). . . . In order to qualify for release, Scrusy must first demonstrate by clear and convincing evidence that he is not likely to flee or pose a danger to the safety of any other person or the community if released. See 18 U.S.C. § 3143(b)(1)(A). If he meets that initial burden, he must then show that the appeal is not taken for the purposes of delay, but instead presents an outcome-determinative substantial question of law or fact. See 18 U.S.C. § 3143(b)(1)(B).

In our January 7 order, we found it unnecessary to reach the “substantial question” referred to in § 3143(b)(1)(B), because we agreed with the district court that Scrusy had not met his burden under § 3143(b)(1)(A). We continue to adhere to that position; Scrusy has not demonstrated by clear and convincing evidence that he is unlikely to flee if he is released pending appeal. Scrusy’s motion for reconsideration is, accordingly,

DENIED.