

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

IZELLE M. DAVIS,

Petitioner,

v.

CASE NO. 09-3174-SAC

RAY ROBERTS,

Respondent.

O R D E R

Petitioner proceeds pro se on a petition for writ of habeas corpus under 28 U.S.C. § 2254, to which respondents have filed an answer and return. Before the court is petitioner's request for an "appeal bond pursuant to K.S.A. 22-2804," (Doc. 20), for his release pending disposition of this action. Petitioner cites the 86 months he has already served, and generally cites factors as supporting his request for an appeal bond.

Clearly, the state statute cited by petitioner provides no federal authority for granting petitioner's motion.<sup>1</sup>

Although this court has inherent power to order a prisoner's release on bond pending adjudication of a federal habeas application, to be entitled to this extraordinary remedy an applicant must demonstrate "exceptional circumstances" or "a clear case on the merits of the habeas petition." *Pfaff v. Wells*, 648

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<sup>1</sup>K.S.A. 22-2804 provides for the release on bond by a state district or appellate judge of a person convicted in a state court, pending that person's sentencing or disposition of an appeal in the Kansas courts.

F.2d 689, 693 (10th Cir.1981). The court finds petitioner has made no showing of either prerequisite.

IT IS THEREFORE ORDERED that petitioner's request for an appeal bond (Doc. 20) is denied.

**IT IS SO ORDERED.**

DATED: This 24th day of November 2010 at Topeka, Kansas.

s/ Sam A. Crow  
SAM A. CROW  
U.S. Senior District Judge