

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

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No. 06-20885

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U.S. COURT OF APPEALS  
FILED

DEC 12 2006

CHARLES R. FULBRUGE III  
CLERK

UNITED STATES OF AMERICA

Plaintiff-Appellee,

versus

JEFFERY K. SKILLING

Defendant-Appellant.

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Appeal from the United States District Court  
For the Southern District of Texas

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(CR H-04-025)

Before PATRICK E. HIGGINBOTHAM, Circuit Judge:

Defendant Jeffrey Skilling moves for bail pending appeal of his conviction after a jury trial on nineteen counts of conspiracy, securities fraud, making false statements to auditors, and insider trading. Skilling was sentenced on October 23, 2006 to 292 months of imprisonment. His surrender date is currently stayed, pending the Court's decision on this motion. The district judge denied the request for bail in a carefully written opinion.

PEK

By act of Congress, we must order that Skilling be detained during appeal, unless we find, *inter alia*, that his appeal raises "a substantial question likely to result in a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process."<sup>1</sup>

Our review has disclosed serious frailties in Skilling's conviction of conspiracy, securities fraud, and insider trading, difficulties brought by a decision of this court handed down after the jury's verdict,<sup>2</sup> as well as less formidable questions regarding the giving of a jury instruction on deliberate ignorance. Yet Skilling raises no substantial question that is likely to result in the reversal of his convictions on all of the charged counts. We are not then persuaded that any resulting sentence will likely exceed the expected duration of his appeal. Defendant's motion for bail pending appeal is DENIED. The stay of Defendant's surrender date is lifted.

SO ORDERED.

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<sup>1</sup>18 USC § 3143(b); *United States v. Clark*, 917 F.2d 177 (5th Cir. 1990).

<sup>2</sup>*United States v. Brown*, 459 F.3d 509 (5th Cir. 2006).