

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 02-3095

September Term, 2002

96cr00317-02

United States of America,
[731373]

Appellee

Filed On: February 11, 2003

v.

Anthony J. Gantt, *a/k/a* Fats,
Appellant

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BEFORE: Ginsburg, Chief Judge; Sentelle and Rogers,
Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the memoranda filed by the parties. It is

ORDERED AND ADJUDGED that the district court's order filed September 19, 2002, be affirmed. Appellant has not established exceptional circumstances, including a likelihood of success on the merits, warranting release pending any appeal. See United States v. Kelly, 790 F.2d 130, 139 (D.C. Cir. 1986); Baker v. Sard, 420 F.2d 1342, 1343-44 (D.C. Cir. 1969) (*per curiam*). In light of our holding that appellant has not shown the requisite exceptional circumstances, we need not decide whether appellant filed a notice of appeal or a request for a certificate of appealability concerning the underlying order of November 15, 2001. We note, however, that this court has no record of having received these or similar filings. Moreover, the exhibits cited in appellant's opening memorandum concerning such filings are not attached to the memoranda. Likewise, the exhibits to his reply memorandum do not establish that a notice of appeal was in fact sent to any court. Finally, to the extent that appellant claims to have evidence concerning submission of such filings to the district court, he should present his evidence to the district court in the first instance.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 02-3095

September Term, 2002

Per Curiam