

February 16, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-50684  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KAROLE D. BURTON,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:06-CV-291  
USDC No. 5:03-CR-590-ALL  
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Before KING, HIGGINBOTHAM, and GARZA, Circuit Judges.

PER CURIAM:\*

Karole D. Burton, formerly federal prisoner # 03618-180, seeks a certificate of appealability to challenge the district court's denial of her 28 U.S.C. § 2255 motion. She also seeks leave to proceed in forma pauperis (IFP).

In her § 2255 motion Burton challenged the one-year prison term that the district court imposed after revoking the supervised release that she was serving for her conviction of theft of government property, in violation of 18 U.S.C. § 641.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

To obtain a COA, Burton must make a substantial showing of the denial of a constitutional right. See § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). During the pendency of this appeal, Burton was released from prison. Burton's claims have been rendered moot by her release. See Spencer v. Kemna, [523 U.S. 1, 7](#) (1998); Bailey v. Southerland, 821 F.2d 277, 278-79 (5th Cir. 1987). Therefore, this appeal is DISMISSED AS MOOT. COA and IFP are DENIED AS MOOT.