

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-50465
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SANDRA L. MOORER,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-96-CR-22-1
- - - - -
February 13, 2001

Before SMITH, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Sandra L. Moorner appeals the revocation of probation imposed upon her conviction for fraudulently obtaining student loans. Moorner was arrested on charges of driving while intoxicated (DWI) and theft by check. At a probation-revocation hearing, she pleaded true to the two DWI charges as well as to a stipulated charge for theft by check. As a result, her probation was revoked, and she was sentenced to ten months of imprisonment. She contends that her due process rights were violated because she was not accorded a preliminary hearing. However, because

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Moorer was taken into custody not on a revocation charge, but on a warrant for new charges of DWI and theft by check, a preliminary hearing was not necessary. See Fed. R. Crim. P. 32.1(a)(1), Advisory Committee Notes; Deveny v. U.S. Bd. of Parole, 565 F.2d 875, 878 (5th Cir. 1978).

AFFIRMED.