

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

October 31, 2007

Before

Hon. DANIEL A. MANION, *Circuit Judge*

Hon. MICHAEL S. KANNE, *Circuit Judge*

Hon. DIANE P. WOOD, *Circuit Judge*

Nos. 06-3517, 06-3528

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

LAWRENCE E. WARNER and
GEORGE H. RYAN, SR.,
Defendants-Appellants.

Appeals from the United States
District Court for the Northern District
of Illinois, Eastern Division

Nos. 02 CR 506-1, 4

Rebecca R. Pallmeyer,
Judge.

O R D E R

Upon consideration of **DEFENDANTS' EMERGENCY MOTION TO STAY THE MANDATE AND CONTINUE BAIL PENDING CERTIORARI, AND, IN THE ALTERNATIVE, MOTION EN BANC SEEKING THE SAME RELIEF**, filed on October 26, 2007, by counsel for the appellants,

Construing the motion as one that in part seeks reconsideration of this court's order of August 21, 2007, ordering appellants' grant of bail to be extended "until this court issues its mandate," **IT IS ORDERED** that the motion is **DENIED**.

Insofar as the motion seeks a stay of the mandate, it is **DENIED** for the reasons stated in the opinion of Judge Wood in chambers, issued today.

KANNE, *Circuit Judge*, dissenting from the denial of the stay of the mandate. The majority in this order has adopted the rationale of Judge Wood's in chambers opinion.

I dissent because I disagree with the in chambers opinion's characterizations of the dissent from the panel opinion and the dissent from the rehearing *en banc*; the in chambers opinion's emphasis and reliance on forfeiture; and that opinion's conclusion that the appellants have not demonstrated a reasonable probability of success on the merits. The trial was riddled with errors that ultimately rendered the proceedings manifestly unfair and unjust, notwithstanding the production of overwhelming incriminating evidence against the appellants. Therefore, because the trial was "broken beyond repair," there is good cause for a stay and the appellants have a reasonable probability of succeeding on the merits.