

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20938
Conference Calendar

DAVID RUIZ ET AL.,

Plaintiffs,

RONALD R. JOHNSON, JR.,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA,

Intervenor-Plaintiff-Appellee,

JANIE COCKRELL, Director, Texas Department of
Criminal Justice, Institutional Division; ALLEN B.
POLUNSKY; CAROLE S. YOUNG; WILLIAM H. MOODY; JOHN
DAVID FRANZ; NANCY PATTON; CAROL VANCE; PATRICIA DAY;
ALFRED C. MORAN; ALFRED M. STRINGFELLOW,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-78-CV-987

August 23, 2001

Before KING, Chief Judge, and POLITZ and PARKER, Circuit Judges.

PER CURIAM:*

Ronald R. Johnson, Jr., Texas inmate #783093, moves this court for leave to appeal in forma pauperis (IFP) from the district court's July 1998 order that controls all pro se motions arising in the Ruiz class action. "To proceed on appeal [IFP], a

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

litigant must be economically eligible, and his appeal must not be frivolous." Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986).

Johnson does not meet the latter prong of this standard for the following reasons. His appeal is untimely. See FED. R. APP. P. 4(a). He lacks standing in the class action. See Gillespie v. Crawford, 858 F.2d 1101, 1103 (5th Cir. 1988) (en banc); Walker v. City of Mesquite, 858 F.2d 1071, 1074 (5th Cir. 1988). Additionally, the order from which he desires to appeal is an unappealable nonfinal order that does not fall under the collateral order doctrine. See Coopers & Lybrand v. Livesay, 437 U.S. 463, 468-69 (1978); North Am. Acceptance Corp. Sec. Cases v. Arnall, Golden & Gregory, 593 F.2d 642, 643-45 (5th Cir. 1979); FED. R. CIV. P. 23(d).

In light of these impediments to Johnson's appeal, his appeal is frivolous. See 5TH CIR. R. 42.2. IT IS ORDERED that IFP is DENIED and the appeal is DISMISSED as FRIVOLOUS.

IFP DENIED. APPEAL DISMISSED.