

February 17, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-10599
Conference Calendar

JOHN T. ESPINOZA,

Plaintiff-Appellant,

versus

THE CITY OF FORT WORTH,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:00-CV-01623

Before HIGGINBOTHAM, EMILIO M. GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

John T. Espinoza has filed an application for leave to proceed in forma pauperis (IFP) on appeal following the district court's unfiled motion of his fifth postjudgment motion to vacate the denial of relief on his 42 U.S.C. § 1983 action, which has already been affirmed on direct appeal by this court. By moving for leave to proceed IFP, Espinoza is challenging the district court's certification that IFP should not be granted on appeal

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

because his appeal is not taken in good faith. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

Espinoza has not made a meritorious challenge to the district court's denial of IFP and has not shown that he will raise a nonfrivolous issue on appeal. See 28 U.S.C. § 1915(a)(3). Espinoza's request for IFP status is DENIED, and his appeal is DISMISSED as frivolous. See Baugh, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2.

Espinoza is also cautioned that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Espinoza should review any newly filed appeals to ensure that they are not frivolous.

MOTION DENIED. APPEAL DISMISSED. SANCTIONS WARNING GIVEN.