

October 27, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-20039
Summary Calendar

ANDRE J. HOWARD; NELLIE ANN HOWARD,

Plaintiffs-Appellants,

versus

RANDALL'S MANAGEMENT,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:03-CV-2138

Before DAVIS, SMITH AND DENNIS, Circuit Judges.

PER CURIAM:*

Andre J. Howard and Nellie Ann Howard have filed a motion seeking leave to proceed in forma pauperis ("IFP") on appeal. By moving for IFP, the Howards are challenging the district court's determination that IFP should not be granted on appeal because their appeal from the district court's dismissal of their housing-discrimination complaint was not taken in good faith. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997). Our review of the record and pleadings indicates that the district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court properly dismissed their complaint for failure to state a claim upon which relief may be granted.

The instant appeal lacks arguable merit. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, the instant motion for leave to proceed IFP on appeal is DENIED, and this appeal is DISMISSED AS FRIVOLOUS. See Baugh, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2. All other outstanding motions are DENIED.

IFP MOTION DENIED; ALL OUTSTANDING MOTIONS DENIED; APPEAL DISMISSED.