

October 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-20183
Conference Calendar

WESLEY R. WILSON,

Plaintiff-Appellant,

versus

PMAC, UNION PLANTERS BANK NA, its successors in interest
and/or assignees; BROWN & SHAPIRO LLP, Attorneys At Law,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-03-CV-2726

Before JOLLY, JONES, and WIENER, Circuit Judges.

PER CURIAM:*

Wesley R. Wilson's motion to recuse Circuit Judges
Barksdale, Emilio Garza, and Dennis is DENIED. See Liteky v.
United States, 510 U.S. 540, 555 (1994).

Wilson has appealed the district court's order denying his
motions for relief, under FED. R. Civ. P. 60(b)(4), from the
district court's order dismissing his complaint, in which Wilson
sought relief from an order of the bankruptcy court. Rule
60(b)(4) provides that the court may relieve a party from a final

* 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this opinion should not be published and is not precedent except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.

judgment if "the judgment is void." FED. R. CIV. P. 60(b)(4). "A judgment is void for purposes of Rule 60(b)(4) if the court that rendered it entered an order outside its legal powers." Carter v. Fenner, 136 F.3d 1000, 1005 (5th Cir. 1998). If the district court had subject matter and personal jurisdiction, relief under Rule 60(b)(4) is appropriate only if "the district court acted in a manner so inconsistent with due process as to render the judgment void." Callon Petroleum Co. v. Frontier Ins. Co., 351 F.3d 204, 210 (5th Cir. 2003) (internal quotation marks omitted). Wilson has not shown that the district court erred.

Because the appeal is without arguable merit, it is DISMISSED AS FRIVOLOUS. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. We caution Wilson that the filing of frivolous appeals and motions will invite the imposition of a sanction.

APPEAL DISMISSED; MOTION DENIED; SANCTION WARNING ISSUED.