

October 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-50506
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIAM RAY PHILLIPS, II,
also known as William Ray Phillips,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:02-CR-117-1

Before JOLLY, JONES, and WIENER, Circuit Judges.

PER CURIAM:*

William Ray Phillips, II, federal prisoner #26337-180, appeals from the district court's denial of his "MOTION FOR INSOLVENCY." Phillips argued in the motion, and argues on appeal, that the Bureau of Prisons is engaging in unfair debt collection practices for purposes of the Fair Debt Collection Practices Act by garnishing a portion of his prison earnings to satisfy his criminal fine and special assessment.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Phillips's criminal fine and special assessment are not fines for purposes of the Fair Debt Collection Practices Act. See 15 U.S.C. § 1692a(5). The district court properly denied Phillips's "MOTION FOR INSOLVENCY." Because Phillips's instant appeal lacks arguable merit, it is DISMISSED as frivolous. See 5TH CIR. R. 42.2; Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Phillips is warned that he will be subject to sanctions if he makes any further frivolous filings.

APPEAL DISMISSED AS FRIVOLOUS; SANCTION WARNING ISSUED.