

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 22, 2011

Lyle W. Cayce
Clerk

No. 10-50404
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARYAM GHARBI,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:04-CR-180-13

Before WIENER, PRADO, and OWEN, Circuit Judges.

PER CURIAM:*

Maryam Gharbi has applied for leave to proceed in forma pauperis (IFP) and the appointment of counsel in her appeal from the district court's denial of her motion for a hearing and claim for exemptions in a garnishment proceeding, her motion for modification of the restitution order in her criminal proceeding, and from the district court's order of disposition in the garnishment proceeding. To proceed IFP, Gharbi must show that she is a pauper and that the appeal is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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taken in good faith, i.e., that she will raise a nonfrivolous issue on appeal. *See Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982).

Gharbi's notice of appeal as to the district court's denial of her motion to modify the restitution order is untimely. *See* FED. R. APP. P. 4(a)(1). Therefore, this court lacks jurisdiction over her appeal from that judgment, *see Bowles v. Russell*, 551 U.S. 205, 214 (2007), and her appeal is dismissed in part.

Gharbi has not shown that she is financially eligible to proceed IFP in her appeal from the district court's denial of her motion for a hearing and exemptions and from its disposition order. *See Adkins v. E.I. Du Pont de Nemours & Co.*, 335 U.S. 331, 339–40 (1948). Gharbi's motion for IFP is denied. Her motion for the appointment of counsel is likewise denied. *See Ulmer v. Chancellor*, 691 F.2d 209, 212-13 (5th Cir. 1982).

Relative to that part of her appeal that is not dismissed, Gharbi is ordered to pay to the clerk of the district court the full appellate filing fee of \$455 within 30 days of the date of this order. The clerk of this court shall dismiss the appeal for want of prosecution if Gharbi does not comply with this order.

APPEAL DISMISSED IN PART; IFP MOTION and MOTION FOR APPOINTMENT OF COUNSEL DENIED.