

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

January 27, 2009

Charles R. Fulbruge III  
Clerk

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No. 08-10499  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

OWEN DONOVAN POWELL

Defendant-Appellant

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Appeals from the United States District Court  
for the Northern District of Texas  
USDC No. 3:07-CR-56-ALL

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Before KING, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:\*

Owen Donovan Powell seeks leave to appeal in forma pauperis (IFP) on appeal and moves for the appointment of counsel. Powell has failed to raise any nonfrivolous issues for appeal. See *United States v. Boutwell*, 896 F.2d 884, 889-90 (5th Cir. 1990) (one-judge order). Powell has presented no arguable legal points for his claim that the district court erroneously determined that his prior Texas conviction was a "drug trafficking offense" that warranted a 16-level

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

enhancement under § 2L1.2. See *United States v. Ford*, 509 F.3d 714, 715-17 (5th Cir. 2007). Accordingly, Powell's motion to proceed IFP on appeal is DENIED, and the appeal is DISMISSED. See 5TH CIR. R. 42.2. Powell's motion for appointment of counsel is DENIED as unnecessary. See 5TH CIR. PLAN UNDER THE CRIMINAL JUSTICE ACT, § 2.