

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-10174
Conference Calendar

WARREN EUGENE WAKE,

Petitioner-Appellant,

versus

SAM PRATT, Warden, Federal Correctional
Institute -- Seagoville,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:98-CV-3026-X
- - - - -

October 18, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Warren Eugene Wake, federal prisoner # 49149-080, seeks leave to proceed in forma pauperis (IFP) in the appeal from the district court's order striking from the record his motion for clarification. By moving for IFP, Wake is challenging the district court's certification that IFP status should not be granted on appeal because his appeal is not taken in good faith. See Fed. R. App. P. 24(a)(5); Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The district court determined that Wake's motion for clarification should be stricken from the record because his underlying 28 U.S.C. § 2255 proceeding had been transferred to the Western District of Texas and disposed of in the district court there. Wake offers no supporting factual or legal argument why his appeal from this order is taken in good faith. His failure to identify any error in the district court's legal analysis or its application to his lawsuit "is the same as if he had not appealed that judgment." Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Because Wake fails to show that he will raise a nonfrivolous issue on appeal, his motion to proceed IFP is DENIED. See Carson, 689 F.2d at 586. Because the appeal is frivolous, it is DISMISSED. 5TH CIR. R. 42.2. Wake's request for a certificate of appealability is DENIED. We caution Wake that the filing of future frivolous appeals may result in the imposition of sanctions.

IFP DENIED; APPEAL DISMISSED; SANCTIONS WARNING ISSUED.