

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-50350  
Summary Calendar

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RUSSELL EUGENE GALER, II,

Petitioner-Appellant,

versus

GARY L. JOHNSON, DIRECTOR,  
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,  
INSTITUTIONAL DIVISION,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. W-00-CV-034  
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September 1, 2000

Before HIGGINBOTHAM, BARKSDALE, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Russell Eugene Galer, II, now Texas prisoner #315395, has moved for leave to proceed in forma pauperis (IFP) and for a certificate of appealability (COA) in order to appeal the district court's interlocutory order denying his application for injunction. See 28 U.S.C. § 1292(a)(1). Galer has also filed a "Summary of Complaint," which is construed as a motion for injunction pending appeal.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

To obtain leave to appeal IFP, Galer must show that his appeal presents a nonfrivolous issue. See Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986). Galer, however, has not done so in the instant case. Although Galer challenges the denial of his application for injunction, he failed to establish in the district court that there existed either a substantial likelihood of success on the merits or a substantial threat that the failure to grant the injunction would result in irreparable injury, both of which are part of the requisite showing to obtain an injunction. See Lakedreams v. Taylor, 932 F.2d 1103, 1107 (5th Cir. 1991).

Because Galer has not shown that the district court erred in denying his application for injunction, his appeal presents no nonfrivolous issue. Accordingly, his IFP application is DENIED. See Jackson, 811 F.2d at 261. His COA application is also DENIED, to the extent that one is required under 28 U.S.C. § 2253(c)(1)(A). See Slack v. McDaniel, 120 S. Ct. 1595, 1604 (2000). Finally, his motion for an injunction pending appeal is DENIED. Because Galer's appeal is without arguable merit, we DISMISS his appeal as frivolous. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR R. 42.2.

MOTIONS DENIED; APPEAL DISMISSED.