

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-50846
Summary Calendar

RUSSELL EUGENE GALER, II,

Petitioner-Appellant,

versus

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

Respondent-Appellee.

Appeals from the United States District Court
for the Western District of Texas
USDC No. W-00-CV-034

February 1, 2001

Before HIGGINBOTHAM, WIENER, and BARKDSALE, Circuit Judges.

PER CURIAM:*

Russell Eugene Galer, II, 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 "Petition for Discretionary Review," which is construed as a request for leave to proceed without a COA, and a "Motion for Judgment of Default."

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Galer has failed to establish in the district court that there existed a substantial likelihood of success on the merits, which is required 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. Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986). 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, 529 U.S. 473, 120 S. Ct. 1595, 1604 (2000). Galer's remaining motions are likewise 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.