

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-60170  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BOBBY EARL KEYS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 3:93-CR-154-2-S-D  
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September 21, 2000

Before DAVIS, JONES and DeMOSS, Circuit Judges.

PER CURIAM:\*

Bobby Earl Keys, federal inmate # 03344-043, requests leave to proceed *in forma pauperis* (IFP) on appeal from the district court's dismissal of his motion brought pursuant to 28 U.S.C. § 1651(a). Keys challenges his armed bank robbery and firearms convictions contending that the district court was biased and denied him full and fair review of his claims; he is actually innocent and has suffered a miscarriage of justice; expert evidence was not properly admitted at trial; his firearm conviction is invalid under *Bailey v. United States*, 516 U.S. 137

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\* Pursuant to 5<sup>TH</sup> 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>TH</sup> CIR. R. 47.5.4.

(1995), because the district court erred in instructing the jury; and the Government did not prove that the bank's deposits were insured by the Federal Deposit Insurance Corporation. Keys' motion for leave to file a supplemental brief is DENIED.

Keys is not entitled to relief under § 1651(a) because he remains in custody and has not served his sentence, and Keys cannot show that the grant of any relief is warranted to achieve justice in his case. See *United States v. Dyer*, 136 F.3d 417, 422 (5th Cir. 1998). Keys' contentions are frivolous and have been rejected previously. Keys may not circumvent the bar against filing successive 28 U.S.C. § 2255 motions. See *Tolliver v. Dobre*, 211 F.3d 876, 878 (5th Cir. 2000).

Keys has not shown that he will present a nonfrivolous issue on appeal. See *Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982). Keys' motion for leave to proceed IFP is DENIED. Keys' appeal is without merit, is frivolous, and is therefore DISMISSED. See *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2.

Keys was warned in his previous appeals, Nos. 99-60431 and 99-60066, that the filing of frivolous appeals would result in the imposition of sanctions. Accordingly, Keys is barred from filing any pleadings or documents of any kind either in the district courts of this circuit or in this court until he obtains the advance written permission of a judge of the forum court.

MOTIONS DENIED; APPEAL DISMISSED AS FRIVOLOUS; SANCTION IMPOSED.