

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-10093
Conference Calendar

DONALD D. WILLIS,

Plaintiff-Appellant,

versus

KROGER; ET AL,

Defendants,

KROGER, UAW 276, DONNA C. PEAVLER,
DAVID ESTES, ERIC DAVIDSON,
CHARLES DAVENPORT and JOHN WILLIT,

Defendants-Appellees.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:00-CV-415-Y
- - - - -

June 13, 2001

Before WIENER, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:*

Donald D. Willis requests leave to proceed in forma pauperis (IFP) in this appeal from the district court's denial of his motion for recusal. To proceed IFP on appeal, Willis must show that he is a pauper and must raise a nonfrivolous issue. 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 denial of a recusal motion is not an appealable interlocutory order or an appealable collateral order. Nobby Lobby, Inc. v. City of Dallas, 970 F.2d 82, 85-86 & n.3 (5th Cir. 1992). Because the court is without jurisdiction to entertain the appeal, it is DISMISSED. See Kershaw v. Shalala, 9 F.3d 11, 13-15 (5th Cir. 1993). Willis' request for IFP is DENIED.

This court has previously cautioned Willis that any additional frivolous appeals would be met by sanctions. See Bell v. City of Fort Worth, No. 96-10176 (5th Cir. July 26, 1996). This is the fourth time in the instant case that Willis has attempted to appeal a nonappealable order. See Willis v. Kroger, No. 01-10186 (5th Cir. Mar. 6, 2001) (dismissing appeal from district court's order denying motion to amend); Willis v. Kroger, No. 00-10825 (5th Cir. Oct. 3, 2000) (dismissing appeal from district court's order striking the defendants' motion to dismiss); and Willis v. Kroger, No. 00-10668 (5th Cir. Aug. 14, 2000) (dismissing appeal from magistrate judge's order denying IFP). An appeal from a nonappealable order is without merit and thus frivolous under Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). We caution Willis that the filing of any additional frivolous appeals will be met with sanctions.

IFP DENIED. APPEAL DISMISSED. SANCTIONS WARNING ISSUED.