

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-30399  
Summary Calendar

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ROBERT LEVY,

Petitioner-Appellant,

versus

CHRISTINE G. DAVIS, District Director, Immigration &  
Naturalization Service, New Orleans,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. 01-CV-570-D  
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October 4, 2002

Before BARKSDALE, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Robert Levy, a native and citizen of Jamaica, seeks leave to proceed in forma pauperis ("IFP") in his appeal from the district court's order dismissing his petition for habeas corpus relief pursuant to 28 U.S.C. § 2241. Levy's petition sought to challenge the Board of Immigration Appeals' ("BIA") decision affirming an order of removal and its decision denying Levy's motion to reopen his removal proceedings.

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 proceed IFP on appeal, Levy must demonstrate both financial eligibility and that he will present a nonfrivolous issue on appeal. See Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982). Levy has arguably demonstrated that he is financially eligible to proceed IFP, but he has failed to present a nonfrivolous issue for appeal. Levy argues on appeal that the BIA erred in refusing to reopen his removal proceedings. However, Levy does not present any issues of statutory interpretation or constitutional law. Accordingly, his claim is not cognizable in a petition filed pursuant to 28 U.S.C. § 2241. See Zadvydas v. Davis, 533 U.S. 678, 688 (2001).

Because Levy has failed to show that he will raise a nonfrivolous issue on appeal, his motion to proceed IFP on appeal is DENIED. See Carson, 689 F.2d at 586. Because the appeal is frivolous, it is DISMISSED. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2.

IFP DENIED; APPEAL DISMISSED.