

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-50275  
Conference Calendar

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TOMAS NORDELO CASAS,

Petitioner-Appellant,

versus

WARDEN, FEDERAL CORRECTIONAL INSTITUTE BASTROP,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. A-01-CV-393-JN  
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October 30, 2002

Before DeMOSS, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:\*

Tomas Nordelo Casas, a federal prisoner (# 44811-079), has filed a motion requesting leave to appeal in forma pauperis ("IFP") following the denial of his second 28 U.S.C. § 2241 habeas petition as an abuse of the writ. See 28 U.S.C. § 2244 (a). This court may authorize Casas to proceed IFP on appeal only if he is economically eligible and his appeal is not frivolous. Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986). Casas' failure to brief the abuse-of-the-writ issue, the basis of the denial of his habeas petition, is the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

same as if he had not appealed the judgment. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). Accordingly, the appeal is without arguable merit, and we DENY IFP and DISMISS THE APPEAL AS FRIVOLOUS. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

IFP DENIED; APPEAL DISMISSED AS FRIVOLOUS.