

April 30, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-50500
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KEITH RUSSELL JUDD,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. MO-98-CR-93-ALL

Before JONES, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:*

In May 2002, Keith Russell Judd, federal prisoner # 11593-051, filed an "amended notice of appeal," stating that he was amending his original notice of appeal. This court must examine the basis of its jurisdiction on its own motion if necessary. Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). Judd's notice of appeal did not designate a specific appealable order or judgment. See FED. R. APP. P. 3(c)(1)(B).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Judd argues that he is appealing from the magistrate judge's July 1998 order, in Judd's criminal proceeding, that Judd submit to a psychological or psychiatric examination. Judd was required to file his notice of appeal within 10 days from the entry of the judgment or the order being appealed. See FED. R. APP. P. 4(b). The judgment of conviction in Judd's criminal case was entered on September 29, 1999. Judd's May 2002 notice of appeal is not timely filed from any appealable order or judgment in the criminal proceeding.

This court dismissed a prior attempt by Judd to appeal the July 1998 order for lack of jurisdiction, reasoning that orders of the magistrate judge are not directly appealable to this court. United States v. Judd, No. 98-50954 (5th Cir. Nov. 3, 1998) (unpublished). This court also reasoned that the appeal was moot because the psychiatric examination was conducted and the competency hearing held. See id. The instant appeal is another attempt by Judd to directly appeal a non-appealable order to this court.

This appeal is DISMISSED as frivolous. See 5TH CIR. R. 42.2. All outstanding motions are DENIED.

Because Judd continues his pattern of filing frivolous appeals despite this court's warnings, he is ORDERED to pay a sanction in the amount of \$105, payable to the clerk of this court. The clerk of this court and the clerks of all federal district courts within this Circuit are DIRECTED to refuse to file any pro se appeal,

appealing any order or judgment entered in Judd's criminal proceeding, United States District Court Cause Nos. MO-98-CR-93 or MO-98-059M, unless Judd submits proof of satisfaction of this sanction. Any such attempts by Judd will invite the imposition of further sanctions. To avoid further sanctions, Judd is cautioned to review any pending appeals to ensure that they do not contravene this order.

This sanction order does not bar Judd from appealing from an appealable order or judgment entered in his currently pending 28 U.S.C. § 2255 proceeding, United States District Court Cause No. MO-01-CA-121.

APPEAL DISMISSED; MOTIONS DENIED; SANCTION IMPOSED.