

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III  
Clerk

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No. 02-60732  
Conference Calendar

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DONALD LEE FLORES,

Petitioner-Appellant,

versus

KHURSHID Z. YUSUFF,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 5:01-CV-217-BR-S  
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Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:\*

Donald Lee Flores, federal prisoner # 01508-017, seeks leave to proceed in forma pauperis ("IFP") in his appeal from the district court's order dismissing his 28 U.S.C. § 2241 petition for lack of jurisdiction. To obtain leave to proceed IFP on appeal, Flores 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). Flores has arguably demonstrated that he is financially eligible to proceed IFP, but he has failed to present a nonfrivolous issue for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appeal. The district court lacked jurisdiction to consider Flores' 28 U.S.C. § 2241 petition as he has not shown that he is entitled to raise his claims under the savings clause of 28 U.S.C. § 2255. See Pack v. Yusuff, 218 F.3d 448, 451 (5th Cir. 2000).

Because Flores 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 5TH CIR. R. 42.2.

IFP MOTION DENIED; APPEAL DISMISSED.