

June 24, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-10075
Conference Calendar

JOSEPH DAVID BRODIN,

Petitioner-Appellant,

versus

L. E. FLEMING, Warden, Federal Medical Center
Fort Worth, TX; UNITED STATES OF AMERICA,

Respondents-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:02-CV-1024-A

Before DeMOSS, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Joseph David Brodin, federal prisoner # 09360-023, appeals the denial of his motion to disqualify the district judge under 28 U.S.C. § 455. The denial of a motion to disqualify is not an appealable 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).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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