

June 19, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-10391
Conference Calendar

FRANCIS TEJANI KUNDRA,

Petitioner-Appellant,

versus

COURT OF CRIMINAL APPEALS OF TEXAS,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:06-CV-14

Before JONES, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:*

Francis Tejani Kundra, immigration detainee # A20661647, appeals the denial of his FED. R. CIV. P. 60(b) motion following the dismissal of his 28 U.S.C. § 1651 petition for a writ of mandamus as frivolous pursuant to 28 U.S.C. § 1915A(e)(2)(B). Kundra has not shown that he was entitled to relief under Rule 60(b) or that the district court abused its discretion in determining that Kundra could not amend his complaint to raise new claims in a Rule 60(b) motion. See FED. R. CIV. P. 60(b); Rourke v. Thompson, 11 F.3d 47, 51 (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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

see also Behringer v. Johnson, 75 F.3d 189, 190 (5th Cir. 1996). Kundra's appeal is without arguable merit and is to be dismissed as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2.

Kundra has filed a motion for appointment of counsel on appeal. Kundra has not shown that his case presents exceptional circumstances justifying the appointment of counsel or that the interests of justice require the appointment of counsel in this case. See Schwander v. Blackburn, 750 F.2d 494, 502 (5th Cir. 1985); see also Ulmer v. Chancellor, 691 F.2d 209, 212 (5th Cir. 1982).

Kundra was previously warned that filing or prosecuting future frivolous appeals may result in the imposition of sanctions. See Kundra v. Austin, No. 06-10695 (5th Cir. Apr. 17, 2007). Despite this warning, Kundra persists in the prosecution of the instant frivolous appeal as well as the frivolous appeal in Kundra v. Gould, No. 06-10914. Therefore, it is ordered that Kundra pay one monetary sanction of \$100 to the clerk of this court for both the instant case and Kundra v. Gould, No. 06-10914. The clerk of this court and the clerks of all federal courts within this circuit are directed to refuse to file any pro se civil complaint or appeal by Kundra unless Kundra submits proof of satisfaction of this sanction. If Kundra attempts to file any further notices of appeal or original proceedings in this court without such proof the clerk will docket them for

administrative purposes only. Any other submissions which do not show proof that the sanction has been paid will be neither addressed nor acknowledged. Kundra is also cautioned that future frivolous filings in this court or any court subject to this court's jurisdiction will subject him to additional sanctions.

AFFIRMED; MOTION DENIED; SANCTION IMPOSED.