

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

June 19, 2008

No. 07-20603
Conference Calendar

Charles R. Fulbruge III
Clerk

DARRELL J HARPER

Plaintiff-Appellant

v.

CITY OF HOUSTON; STATE OF TEXAS

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:07-MC-485

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

PER CURIAM:*

Darrell J. Harper moves to proceed in forma pauperis (IFP) on appeal. Under FED. R. APP. P. 24(a)(5), this court may entertain a motion to proceed IFP when the district court has denied a litigant leave to proceed IFP. To proceed IFP on appeal, a movant must demonstrate that he is a pauper and that he will raise nonfrivolous issues on appeal. *Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982). A movant makes the latter showing by demonstrating that his "appeal

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

involves legal points arguable on their merits.” *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983) (internal quotation marks and citation omitted); see also *Zarnow v. City of Wichita Falls, Tex.*, 500 F.3d 401, 407 (5th Cir. 2007) (“An appeal is frivolous when it involves legal points that are not arguable on their merits.”).

Harper’s IFP motion fails. He does not state the nature of the claims that he will raise on appeal, asserting only that he is unable to pay the filing fee. Harper thus has not shown that his “appeal involves legal points arguable on their merits.” See *Howard*, 707 F.2d at 219. Harper’s motion to proceed IFP on appeal is denied, and the appeal is dismissed as frivolous. See 5TH CIR. R. 42.2.

This court previously sanctioned Harper for the filing of frivolous appeals and ordered him to pay \$100. See *Harper v. Atlas*, No. 05-20856 (5th Cir. Aug. 28, 2006) (unpublished). Undaunted by the prior sanction, Harper has filed yet another frivolous appeal. We now order Harper to pay \$300 as a sanction to the clerk of this court. Harper is barred from filing any pleading in this court or in any court subject to this court’s jurisdiction until the total amount of the sanction imposed on him is paid in full. Harper is also warned that any future meritless filings in this court or any court subject to this court’s jurisdiction will subject him to additional sanctions, as will the failure to withdraw any pending matters that are frivolous.

IFP DENIED; APPEAL DISMISSED; SANCTION IMPOSED; SANCTION WARNING ISSUED.