

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

May 13, 2009

No. 08-40851
Summary Calendar

Charles R. Fulbruge III
Clerk

GEORGE CLERON MORGAN

Petitioner-Appellant

v.

NATHANIEL QUARTERMAN, DIRECTOR, TEXAS DEPARTMENT OF
CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION

Respondent-Appellee

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:05-CV-41

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:*

George Cleron Morgan, Texas prisoner number 1125877, was convicted of possession of cocaine and retaliation, and he was sentenced to serve 23 years in prison. Morgan filed a § 2254 application asserting that his drug conviction was constitutionally flawed. The district court dismissed the application as successive. Morgan filed the instant Rule 60(b) motion requesting relief from judgment. On August 3, 2008, the magistrate judge entered an oral order

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

addressing the motion. Morgan filed a notice of appeal of the magistrate judge's order. Morgan now seeks a certificate of appealability (COA) and leave to proceed in forma pauperis (IFP) on appeal from this court.

If necessary, we must examine the basis of our jurisdiction sua sponte. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). Under 28 U.S.C. § 1291, this court's jurisdiction is limited to appeals from "final decisions of the district courts." The magistrate judge's entry of an oral order on August 3, 2008, is not a final decision of the district court. Accordingly, the appeal is dismissed for lack of jurisdiction. Morgan's motions for a COA and for leave to proceed IFP are denied without prejudice as unripe.

APPEAL DISMISSED; MOTIONS DENIED AS UNRIPE.