

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

United States Court of Appeals  
Fifth Circuit

**FILED**

June 16, 2009

---

No. 08-50828  
Conference Calendar

---

Charles R. Fulbruge III  
Clerk

JOSEPH JORDAN JACKSON

Petitioner-Appellant

v.

STATE OF TEXAS

Respondent-Appellee

---

Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 1:08-CV-33

---

Before SMITH, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:\*

Joseph Jordan Jackson appeals the dismissal of his pro se petition for writ of mandamus, which sought issuance of a stay in a probate case that was pending in the Texas court of appeals. The district court dismissed his suit as frivolous pursuant to 28 U.S.C. § 1915(e)(2), reasoning that federal courts lack the authority to issue a writ of mandamus to direct the performance of a state court. This court reviews the dismissal of a complaint as frivolous under

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 1915(e)(2) for abuse of discretion. *Berry v. Brady*, 192 F.3d 504, 507 (5th Cir. 1999). Jackson does not brief any argument challenging the basis of the district court's decision. Jackson has thus waived any such challenge on appeal, *see Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993), and has not shown that the district court's decision was an abuse of discretion.

AFFIRMED.