

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

United States Court of Appeals  
Fifth Circuit

**FILED**

April 15, 2009

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No. 08-50848  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSE LEON GONZALEZ-LONGORIA, also known as Alfred Martinez, also known as Juan Vela

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:92-CR-65-1

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Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:\*

Jose Leon Gonzalez-Longoria, Jr., federal prisoner # 59761-079, seeks leave to proceed in forma pauperis (IFP) to appeal the denial for lack of jurisdiction of his motion to show cause why the Government had not filed a motion under 18 U.S.C. § 3573 for remission of his \$200,000 fine. The district court denied IFP and certified that Gonzalez-Longoria's appeal was not taken in good faith. By moving for leave to proceed IFP, Gonzalez-Longoria is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

challenging the district court's certification. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997); FED. R. APP. P. 24(a)(5).

On appeal, Gonzalez-Longoria does not address the threshold issue of whether the district court had jurisdiction to consider his motion to show cause. Gonzalez-Longoria's motion to show cause was an unauthorized motion that the district court was without jurisdiction to entertain. *See United States v. Early*, 27 F.3d 140, 142 (5th Cir. 1994). Gonzalez-Longoria's appeal is from the denial of that unauthorized motion.

Gonzalez-Longoria's appeal does not involve legal points arguable on their merits, and it is therefore frivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Accordingly, Gonzalez-Longoria's IFP motion is DENIED, and the appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202; 5TH CIR. R. 42.2.