

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

United States Court of Appeals
Fifth Circuit

FILED

June 20, 2012

Lyle W. Cayce
Clerk

No. 11-10738
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARK LINNEAR HAYS,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:95-CR-141-2

Before HIGGINBOTHAM, DAVIS and ELROD, Circuit Judges.

PER CURIAM:*

Mark Linneare Hays, federal prisoner # 46431-019, moves in this court for leave to proceed in forma pauperis (IFP) in an appeal of the district court's denial of his motions for leave to file a recusal motion, a 18 U.S.C. § 3582(c) motion for a sentence reduction, and a motion pursuant to Federal Rule of Civil Procedure 60(b) to challenge his sentence based on newly discovered evidence and fraud on the sentencing court. Hays's motion to file a supplemental brief is DENIED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 11-10738

By moving for leave to proceed IFP on appeal, Hays is challenging the district court's certification that his appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997); FED. R. APP. P. 24(a)(5). Hays has failed to demonstrate that his appeal from the district court's denial of his motions for leave to file his proposed recusal, § 3582(c), and Rule 60(b) motions involves legal points arguable on their merits. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Accordingly, his motion for leave to proceed IFP is DENIED. Further, because it is apparent that an appeal would lack merit, the appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 & n. 24; 5TH CIR. R. 42.2.

Hays has been warned "that frivolous and repetitive filings may subject him to sanctions, which may include monetary sanctions and restrictions on filing further pleadings." *United States v. Hays*, 06-10728 (5th Cir. Mar. 26, 2007) (unpublished one-judge order). He has failed to heed that warning. Accordingly, Hays is ORDERED to pay a sanction in the amount of \$100 to the Clerk of this Court. He is BARRED from filing in the district court or in this court any challenge to his 1996 convictions or sentences or the disposition of any prior pleading filed in relation to these convictions or sentences until the sanction is paid in full, unless he first obtains leave of the court in which he seeks to file such challenge. Hays is further CAUTIONED that any future frivolous, repetitive, or abusive filings will subject him to additional and progressively more severe sanctions. Hays is directed to review any pending matters and move to dismiss any that are frivolous or repetitive.