

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

United States Court of Appeals
Fifth Circuit

FILED

September 18, 2012

No. 12-30240
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

SEANTE J. MCKNIGHT,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:06-CR-46-1

Before JOLLY, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:*

Seante J. McKnight, federal prisoner # 29722-034, moves in this court for leave to proceed in forma pauperis (IFP) in an appeal of the district court's denial of his motion to compel performance of his plea agreement. He argues that the district court's denial of his motion is in conflict with *United States v. Roberts*, 624 F.3d 241, 245-48 (5th Cir. 2010); that the plain language of his plea agreement stipulated that his base offense level would be 30, with a three-level reduction for acceptance of responsibility, resulting in a total offense level of 27;

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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that the Government breached the plea agreement that it would not seek a sentence enhancement under 21 U.S.C. § 851; and that the district court should have ordered the Government to comply with the terms of the plea agreement.

By moving for leave to proceed IFP on appeal, McKnight 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). McKnight has failed to demonstrate that his appeal from the district court's denial of his motion 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 on appeal 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.