

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

No. 13-31175
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 13, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

OSCAR HILLS, IV,

Defendant-Appellant

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:09-CR-46

Before PRADO, OWEN, and GRAVES, Circuit Judges.

PER CURIAM:*

Oscar Hills, IV, federal prisoner # 05251-095, who stands convicted of wire fraud, moves for leave to proceed in forma pauperis (IFP) in this appeal from the district court's denial of his motion to stay or enjoin his supervised release pending our decision in *United States v. Hills*, No. 13-30960. He also moves this court to stay his supervised release and the district court's order of

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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restitution during the pendency of his appeal in No. 13-30960, or, in the alternative, to modify certain conditions of his supervised release.

By moving to proceed IFP, Hills is challenging the district court's certification decision that this appeal was not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). Our inquiry into an appellant's good faith "is limited to whether the appeal involves legal points arguable on their merits (and therefore not frivolous)." *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted).

Since Hills filed the instant appeal, we have issued our decision in No. 13-30960, affirming the district court's denial of Hills's motion to withdraw his guilty plea. *See United States v. Hills*, No. 13-30960 (5th Cir. Nov. 18, 2014). Given our affirmance in No. 13-30960, Hills cannot demonstrate a nonfrivolous issue for appeal with respect to the district court's denial of his motion for a stay or injunction. Accordingly, his motion for IFP is DENIED, and his appeal is DISMISSED. *See Baugh*, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2.

Moreover, because we have already issued our decision in No. 13-30960, Hills's motion to stay his supervised release and the order of restitution pending that decision is DENIED. Finally, to the extent Hills seeks modification of the conditions of his supervised release, he must move for modification in the district court pursuant to 18 U.S.C. § 3583(e) and Federal Rule of Criminal Procedure 32.1(c). Accordingly, his motion to modify his conditions of supervised release is also DENIED.