

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

No. 14-40643

United States Court of Appeals
Fifth Circuit

FILED

April 3, 2015

Lyle W. Cayce
Clerk

WILBERT PATRICK STEWART,

Petitioner-Appellant

v.

WILLIAM STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:13-CV-408

Before PRADO, OWEN, and GRAVES, Circuit Judges.

PER CURIAM:*

In this 28 U.S.C. § 2254 proceeding, Wilbert Patrick Stewart, Texas prisoner # 1833832, challenged the calculation of his sentence following his parole revocation. He now seeks a certificate of appealability (COA) to challenge a district court order dated May 30, 2014. In the order, the district court denied, without prejudice, Stewart's motions for a COA and leave to proceed in forma pauperis on appeal. Stewart filed these motions to appeal a

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 14-40643

magistrate judge's memorandum and recommendation, which the district court had not yet considered.

We must examine the basis of our jurisdiction, sua sponte, if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). The district court's May 2014 order is not final or otherwise appealable. *See Dardar v. Lafourche Realty Co.*, 849 F.2d 955, 957 (5th Cir. 1988). Accordingly, the appeal is DISMISSED for lack of appellate jurisdiction, and Stewart's COA application is denied as moot.

We note that, in addition to the instant appeal, Stewart has filed two other appeals during this § 2254 proceeding. *See Stewart v. Stephens*, No. 14-40535; *Stewart v. Stephens*, No. 14-40835. We dismissed one of those appeals for lack of appellate jurisdiction, *see Stewart v. Stephens*, No. 14-40535 (5th Cir. Aug. 19, 2014), and denied a COA as to the other, *see Stewart v. Stephens*, No. 14-40835 (5th Cir. Mar. 4, 2015). Stewart is CAUTIONED that future frivolous or repetitive filings will result in the imposition of sanctions, including dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court or any court subject to this court's jurisdiction. Stewart should review all pending matters in this court and move to dismiss any that are frivolous or repetitive.