

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

\_\_\_\_\_  
No. 16-10242  
Summary Calendar  
\_\_\_\_\_

United States Court of Appeals  
Fifth Circuit

**FILED**

January 6, 2017

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CARLOS HUITRON MARTINEZ,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:11-CR-146-21  
\_\_\_\_\_

Before OWEN, ELROD, and COSTA, Circuit Judges.

PER CURIAM:\*

Carlos Huitron Martinez, federal prisoner # 43160-177, seeks to proceed in forma pauperis (IFP) to appeal the district court's denial of his motion to stay a transfer from his current prison facility to another. His IFP motion is construed as a challenge to the district court's certification that his appeal was frivolous and not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997); 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a)(3)(A). Because

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 16-10242

Huitron Martinez has no constitutional right to be incarcerated in the facility of his choice; *see Olim v. Wakinekona*, 461 U.S. 238, 244-46 (1983); 18 U.S.C. § 3621(b); he has failed to show that his appeal involves an arguably meritorious issue. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

IT IS ORDERED, therefore, that Huitron Martinez's motion to proceed IFP on appeal is DENIED, and the appeal DISMISSED AS FRIVOLOUS. *See* 5TH CIR. R. 42.2.