

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

No. 17-41219
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

June 19, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

ALBERTO CHAVEZ-SUAREZ,

Defendant–Appellant.

Appeals from the United States District Court
for the Southern District of Texas
No. 7:14-CR-1622-5

Before SMITH, HAYNES, and WILLETT, Circuit Judges.

PER CURIAM:*

Alberto Chavez-Suarez, federal prisoner #76245-379, was convicted 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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conspiracy to possess with intent to distribute 100 kilograms or more of marijuana. He seeks to proceed *in forma pauperis* (“IFP”) on appeal of the denial of his motion for declaratory relief.

The motion for declaratory relief, based upon an immigration statute, 8 U.S.C. § 1228, was a “meaningless, unauthorized motion” over which the district court lacked jurisdiction. *United States v. Early*, 27 F.3d 140, 141-42 (5th Cir. 1994). Chavez-Suarez’s appeal is without arguable merit and therefore is frivolous. *See Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). Chavez-Suarez’s motion to proceed IFP is DENIED, and the appeal is DISMISSED as frivolous. *See Baugh v. Taylor*, 117 F.3d 197, 202 & n.24 (5th Cir. 1997); 5TH CIR. R. 42.2.