

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-5036
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOE ALLEN BOUNDS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. CR-88-50038-02
- - - - -

(May 18, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

BY THE COURT:

Joe Allen Bounds moves this Court for leave to proceed in forma pauperis (IFP) in an appeal of the denial of his pro se Federal Rule of Civil Procedure 60(b)(3) motion for relief from a judgment. In criminal cases, the "final judgment rule" prohibits appellate review until conviction and imposition of sentence. Flanagan v. U.S., 465 U.S. 259, 263, 104 S.Ct. 1051, 79 L.Ed.2d 288 (1984). As a final judgment and commitment order has not been entered against Bounds, there is no final judgment on which to base jurisdiction for an appeal. See FED. R. APP. P. 4(b). The underlying basis of Bounds's appeal, the district court's denial of his Fed. R. Civ. P. 60(b)(3) motion, was proper as Rule 60(b)(3) does not apply in criminal cases. Finally, Bounds is

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represented by court-appointed counsel and, therefore, already has IFP status. Bounds's motion to proceed IFP is DENIED as unnecessary and the appeal is DISMISSED for lack of jurisdiction.