

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-11158
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EALUM LEE STEARMAN,

Defendant-Appellant.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:93-CV-0490-T (3:90-CR-268-T)

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June 20, 1995

Before JONES, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

Ealum Lee Stearman moves this court for leave to proceed on appeal in forma pauperis (IFP). See Fed. R. App. P. 24(a). "To proceed on appeal [IFP], a litigant must be economically eligible, and his appeal must not be frivolous." Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986).

Stearman has also requested leave for filing a supplemental brief. IT IS ORDERED that his request is GRANTED.

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

In his original and supplemental briefs, Stearman has raised the following issues: 1) whether the district court erred in denying his pretrial motion to quash the indictment which was based on false and inflammatory testimony; 2) whether Stearman was denied his constitutional right to self-representation; 3) whether due process was violated by preindictment delay; 4) whether he was denied his constitutional and statutory right to a speedy trial; 5) whether the district court failed to resolve the disputed sentencing issues stemming from the presentence report containing false information; 6) whether his conviction should be reversed due to prosecutorial misbehavior and improper comment; 7) whether federal jurisdiction was proper; 8) whether the cumulative effect of the errors warrants reversal of his conviction; and 9) whether counsel rendered ineffective assistance by failing to call certain witnesses, failing to make an opening statement, failing to object to the use of an "illegal" presentence report, by being unprepared for trial and thus coercing Stearman to agree to a delay of his trial, by concealing from Stearman and failing to use at trial evidence from depositions, by refusing to use at trial the financial analyses created by Stearman and by a financial expert, by unsuccessfully cross-examining witness Jimmy Kerr, by giving an ineffective closing argument, by informing the court in the jury's presence of Stearman's intent to testify after all other witnesses had been called, and by refusing to object to jurisdiction.

We note that Stearman has attempted to raise appellate issues by referencing page numbers from his 28 U.S.C. § 2255 motion and by noting that issues, raised on their merits, were caused by ineffective assistance of counsel. We view these attempts as insufficient argument, and we do not review those issues so raised. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993).

After reviewing Stearman's arguments, we concluded that his appeal does not contain a nonfrivolous issue. Therefore, IT IS ORDERED that Stearman's request to proceed IFP is DENIED. IT IS FURTHER ORDERED that his request for change in custody is DENIED. Because his appeal is frivolous, the appeal is DISMISSED.

SO ORDERED.