

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-11211  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RODGER LYNN EDGE,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:94-CR-194-R  
- - - - -

June 27, 1996

Before HIGGINBOTHAM, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Rodger Lynn Edge, #26523-080, seeks in forma pauperis (IFP) status to appeal the district court's dismissal of his 28 U.S.C. § 2255 motion. Edge's challenge to the restitution portion of his sentence is not within the scope of § 2255 because it raises a nonconstitutional issue that could have been raised on direct appeal. See United States v. Vaughn, 955 F.2d 367, 368 (5th Cir.

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

1992); United States v. Capua, 656 F.2d 1033, 1037 (5th Cir. 1981).

Having reviewed the record and the relevant law, we DENY the motion for IFP because this appeal does not involve legal points arguable on their merits. Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986). Thus, the appeal is frivolous and is DISMISSED. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2. We caution Edge that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Edge is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous because they have been previously decided by this court.

MOTION FOR LEAVE TO PROCEED IFP DENIED. APPEAL DISMISSED.  
SANCTIONS WARNING ISSUED.