

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-40570  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CEDRIC PIERRE WEBB, a/k/a  
Cedric Nickerson,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-94-CR-172-1  
- - - - -  
February 24, 1997

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:\*

Cedric Pierre Webb moves for leave to proceed in forma pauperis (IFP) on appeal, arguing that the district court erred by denying his motion for a trial transcript at government expense.

A prisoner is not entitled to a trial transcript to assist him in the preparation of a postconviction motion under 28 U.S.C.

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

§ 2255. United States v. MacCollum, 426 U.S. 317, 321-24 (1976);

see also United States v. Herrera, 474 F.2d 1049, 1049 (5th Cir.), cert. denied, 414 U.S. 861 (1973)(§ 2255 case). The filing of a § 2255 motion is a condition precedent to the expenditure of public funds under 28 U.S.C. § 753(f), which allows such expenditure to indigent federal defendants under certain conditions. MacCollum, 426 U.S. at 321. Because Webb has not filed a § 2255 motion, the district court did not err by denying his request for a trial transcript at Government expense. See id. Because Webb fails to present an issue with arguable basis in law or fact, he fails to present a nonfrivolous issue for appeal, and his motion for IFP is DENIED. See Fed. R. App. P. 24(a); Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982). Webb's appeal is DISMISSED as frivolous. See 5th Cir. R. 42.2.

We caution Webb that any additional frivolous or malicious appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Webb is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous or malicious.

IFP DENIED. APPEAL DISMISSED. SANCTION WARNING ISSUED.