

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50457
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BERNARDO MCGUIRE,

Defendant-Appellant.

Appeal from the United States District Court for the
Western District of Texas
(EP-96-CA-203)

December 20, 1996

Before HIGGINBOTHAM, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

IT IS ORDERED that (#56903-080) Bernardo McGuire's motion for leave to proceed in forma pauperis (IFP) is DENIED, because his appeal lacks arguable merit and is therefore frivolous. *See Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). The district court

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

did not err by holding that McGuire cannot attack a final judgment of property forfeiture via a 28 U.S.C. § 2255 motion to vacate sentence.¹ Because the appeal is frivolous, IT IS FURTHER ORDERED that the appeal is DISMISSED. See 5th Cir. R. 42.2.

IFP DENIED; APPEAL DISMISSED.

¹McGuire's motion for certificate of appealability is DISMISSED as unnecessary, and his "motion for judgment" is DENIED.