

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-60806
Summary Calendar

MICHAEL E. HASKETT,

Plaintiff-Appellant,

versus

STATE OF MISSISSIPPI,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 3:94MC66-D
- - - - -

February 20, 1998

Before DUHE', DeMOSS and DENNIS, Circuit Judges.

PER CURIAM:*

Michael E. Haskett, Texas prisoner #524781, seeks a certificate of appealability (COA) to appeal from the denial of his motion for production of a grand-jury transcript and denial of his motion for reconsideration of his motion. Haskett also seeks leave to proceed *in forma pauperis* (IFP).

Haskett did not challenge the fact or duration of his confinement in his transcript motion. His motion was not a

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

petition for habeas corpus relief. *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973). No COA is needed for Haskett to proceed on appeal. Haskett's COA motion is DENIED as unnecessary. Because the district court granted Haskett leave to proceed IFP on appeal, he need not obtain our permission to so proceed. FED. R. APP. P. 24(a). Haskett's IFP motion is DENIED as unnecessary.

No further briefing is necessary to determine Haskett's appeal; we therefore proceed to determine the appeal. See *Dickinson v. Wainwright*, 626 F.2d 1184, 1186 (5th Cir. 1980). Haskett's transcript motion was a civil action independent of any other case. We need not determine whether we have jurisdiction over such an appeal because Haskett's appeal may be determined easily on the merits. *United States v. Weathersby*, 958 F.2d 65, 66 (5th Cir. 1992).

Haskett's notice of appeal was untimely to raise the denial of his transcript motion for appeal, FED. R. APP. P. 4(a)(1); the notice of appeal was timely to raise the denial of Haskett's motion pursuant to FED. R. CIV. P. 60(b). The denial of the Rule 60(b) motion was not an abuse of discretion. *Matter of Ta Chi Navigation Corp.*, 728 F.2d 699, 703 (5th Cir. 1984). Haskett has not indicated that the transcript he seeks is necessary to prevent injustice in another proceeding. *United States v. Miramontez*, 995 F.2d 56, 58 (5th Cir. 1993).

Haskett's appeal is without arguable merit and is frivolous. *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). We caution

Haskett that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Haskett 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.

APPEAL DISMISSED, 5TH CIR. R. 42.2; SANCTION WARNING ISSUED.