

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40731
(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee

versus

GUSTAVO ANDRADE,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas, Laredo
- - - - -

December 11, 1997

Before WIENER, BARKSDALE and EMILIO M. GARZA, Circuit Judges

BY THE COURT:*

The United States of America has filed a motion to dismiss Gustavo Andrade's appeal of the denial of his motion under 18 U.S.C. § 3582 (c)(2). The Government argues that the appeal is frivolous. Finding that the appeal is frivolous, we GRANT the motion to dismiss.

Andrade is no stranger to this court, having filed in this court, as well in the district court, numerous appeals and requests for post-conviction relief which were found to be

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

frivolous. Although this court normally warns a litigant prior to the imposition of sanctions, when a litigant's conduct is especially egregious, this court has held that a warning is not a prerequisite to a sanction. Moody v. Baker, 857 F.2d 256, 258 (5th Cir. 1988).

Because Andrade's conduct has been egregious, it is ORDERED that Andrade be barred from filing any pro se, in forma pauperis, civil appeals in this court or any pro se, in forma pauperis, initial civil pleading in any court which is subject to this court's jurisdiction, without the advance written permission of a judge of the forum court or of this court; the clerk of this court and the clerks of all federal district courts in this circuit are directed to return to Andrade, unfiled, any attempted submission inconsistent with this bar.

APPEAL DISMISSED; SANCTIONS IMPOSED.