

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 13-31215
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 18, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOHN E. MILTON, III, also known as Boo Milton,

Defendant-Appellant

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:96-CR-17-1

Before DAVIS, CLEMENT and HAYNES, Circuit Judges.

PER CURIAM:*

John E. Milton, III, federal prisoner # 24395-034, was convicted of conspiring to possess crack and powder cocaine with intent to distribute and was sentenced to serve 600 months in prison and a five-year term of supervised release. Now, he moves this court for authorization to proceed in forma pauperis (IFP) in this appeal from the district court's denial of his "motion to rescind" the judgment denying his second 18 U.S.C. § 3582(c)(2) motion.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 13-31215

The “motion to rescind” was meaningless, unauthorized, and without any jurisdictional basis. *See United States v. Early*, 27 F.3d 140, 142 (5th Cir. 1994). Consequently, this appeal does not involve “legal points arguable on their merits (and therefore not frivolous).” *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks omitted). The appeal is DISMISSED as frivolous, and Milton’s IFP motion is DENIED. *See Baugh v. Taylor*, 117 F.3d 197, 202 & n.24 (5th Cir. 1997); 5TH CIR. R. 42.2.