

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

June 19, 2008

No. 07-30660
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ROBERT W CLARK, JR

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:98-CR-50036-1

Before JONES, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:*

Robert W. Clark, Jr., federal prisoner # 09895-035, seeks leave to proceed in forma pauperis (IFP) on appeal from the district court's denial of his motion for appointment of counsel. Clark was convicted of conspiracy to distribute 50 or more grams of cocaine base (crack) and distribution of 50 or more grams of crack and was sentenced, in 1999, to 360 months of imprisonment on the conspiracy count and 240 months of imprisonment on the distribution count. We affirmed Clark's conviction and sentence on direct appeal. Clark previously filed

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

a 28 U.S.C. § 2255 motion, which the district court denied, and he was denied a certificate of appealability by this court.

Clark thereafter filed in the district court two freestanding motions for appointment of counsel, which the district court denied. This appeal followed. The district court denied Clark leave to proceed IFP on appeal.

As Clark had no proceeding pending in the district court at the time he requested appointment of counsel, Clark has not shown that the “interests of justice” required that the district court appoint counsel to represent him. *Schwander v. Blackburn*, 750 F.2d 494, 502 (5th Cir. 1985). Because Clark’s appeal is frivolous and wholly without merit, see *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983), his IFP motion is denied and his appeal is dismissed. See 5TH CIR. R. 42.2.

IFP DENIED; APPEAL DISMISSED.