

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

No. 18-11383

United States Court of Appeals
Fifth Circuit

FILED

June 5, 2019

Lyle W. Cayce
Clerk

VENCENT W. SCALES, also known as Vincent W. Scales,

Plaintiff–Appellant,

v.

CHARLES R. HORSLEY; ROBERT J. KLUSMEYER; TAMMY A.
MESSIMER; SHERILYN D. TRENT; DANNY VILLARREAL,

Defendants–Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 7:17-CV-117

Before OWEN, WILLETT, and OLDHAM, Circuit Judges.

PER CURIAM:*

Vencent W. Scales, Texas prisoner # 01869322, filed a civil rights action alleging that prison officials beat him after he fought with another prisoner. He moves for leave to appeal in forma pauperis (IFP) from the denial of several pre-trial motions, including a motion for appointment of counsel. The district court denied the motions and denied Scales leave to appeal IFP, certifying that the appeal is not in good faith.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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By moving to appeal IFP, Scales challenges the certification that his appeal is not in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). Our inquiry “is limited to whether the appeal involves legal points arguable on their merits (and therefore [is] not frivolous).” *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted). We may dismiss an appeal “when it is apparent that an appeal would be meritless.” *Baugh*, 117 F.3d at 202 & n.24; *see* 5TH CIR. R. 42.2.

At best, we have appellate jurisdiction only over the denial of Scales’s motion to appoint counsel. *See Robbins v. Maggio*, 750 F.2d 405, 413 (5th Cir. 1985). None of the other orders is appealable. *Cf. Askenase v. LivingWell, Inc.*, 981 F.2d 807, 809-10 (5th Cir. 1993) (discussing what orders are appealable). In any event, Scales fails to identify any nonfrivolous issue for appeal, and he does not address the district court’s reasons for denying his motions.

Accordingly, Scales’s IFP motion is DENIED. *See Baugh*, 117 F.3d at 202. And his appeal is DISMISSED. *See id.* at 202 n.24; *Howard*, 707 F.2d at 220; 5TH CIR. R. 42.2.