

United States Court of Appeals
for the Fifth Circuit

No. 24-10702

United States Court of Appeals
Fifth Circuit

FILED

December 9, 2024

Lyle W. Cayce
Clerk

MICHAEL A. POWELL,

Petitioner—Appellant,

versus

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,*
Correctional Institutions Division; STATE OF TEXAS,

Respondents—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CV-614

Before JONES, DUNCAN, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Michael A. Powell, Texas prisoner # 01342523, commenced the underlying action by filing a self-described motion under Federal Rule of Civil Procedure 60(b), seeking to have the district court, inter alia, set aside an order issued by the Texas Court of Criminal Appeals denying him postconviction relief. The district court entered an order construing

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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Powell's pleading as a 28 U.S.C. § 2254 application and requiring that he "file his [application] on the proper form." Powell filed a notice of appeal from that order and now moves for leave to proceed in forma pauperis (IFP) on appeal. He has also filed a motion for leave to file a supplemental brief.

This court must consider whether it has jurisdiction to review the merits of an appeal. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). We have jurisdiction to review (1) final decisions under 28 U.S.C. § 1291, (2) certain interlocutory decisions under 28 U.S.C. § 1292(a); and (3) interlocutory orders certified as final under Federal Rule of Civil Procedure 54(b) or as appealable under § 1292(b). *United States v. Powell*, 468 F.3d 862, 863 (5th Cir. 2006); see *Briargrove Shopping Ctr. Joint Venture v. Pilgrim Enters., Inc.*, 170 F.3d 536, 538-39 (5th Cir. 1999). We may also review certain decisions under the collateral order doctrine. See *Martin v. Halliburton*, 618 F.3d 476, 481-82 (5th Cir. 2010). The district court's order at issue here is not a final decision, nor does it fall within any of the other categories of appealable orders.

Accordingly, Powell's motion to proceed IFP is DENIED, and his appeal is DISMISSED for lack of jurisdiction. See *Briargrove*, 170 F.3d at 538-39. The motion for leave to file a supplemental brief is DENIED as moot.