

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

March 1, 2021

Lyle W. Cayce  
Clerk

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No. 19-20755

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CHARLES E. LUSK,

*Plaintiff—Appellant,*

*versus*

CARLISIETTA R. WARNER, *Sergeant, O.B. Ellis I Unit*; ALICIA  
SCOTT, *Property Officer, O.B. Ellis I Unit*,

*Defendants—Appellees.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:18-CV-831

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Before STEWART, GRAVES and HIGGINSON, *Circuit Judges.*

PER CURIAM:\*

Charles E. Lusk, Texas prisoner # 1964427, has moved for leave to proceed in forma pauperis (IFP) in this appeal from the denial of his motion under FED. R. CIV. P. 60(b)(6) for relief from the district court's judgment dismissing his civil rights action.

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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By moving this court for leave to proceed IFP, Lusk is challenging the district court's determination that his appeal is not taken in good faith. *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). A motion for leave to proceed IFP on appeal "must be directed solely to the trial court's reasons for the certification decision." *Id.* at 202. This court's inquiry into good faith "is limited to whether the appeal involves legal points arguable on their merits (and therefore not frivolous)." *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted).

Lusk has failed to show that he has a nonfrivolous argument that the district court abused its discretion in determining that Lusk had failed to identify extraordinary circumstances justifying relief and that his Rule 60(b)(6) motion had not been filed within a reasonable time. *See Hess v. Cockrell*, 281 F.3d 212, 215-16 (5th Cir. 2002). The motion for leave to proceed IFP on appeal is DENIED, and the appeal is DISMISSED AS FRIVOLOUS. *See* 5TH CIR. R. 42.2; *Baugh*, 117 F.3d at 202 n.24.