

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

November 15, 2021

Lyle W. Cayce
Clerk

No. 20-60185

BORIS NICHOLS; TONNIE SMITH NICHOLS,

Plaintiffs—Appellants,

versus

U.S. BANK, NATIONAL ASSOCIATION,

Defendant—Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 2:19-MC-162

Before SMITH, HIGGINSON, and WILLETT, *Circuit Judges.*

PER CURIAM:*

Boris Nichols and Tonnie Smith Nichols seek leave to proceed in forma pauperis (IFP) on appeal, arguing that they are financially eligible and that the district court erred in denying their motion for confirmation of their arbitration award against the defendant-appellee based upon the district court's finding that the parties did not have a binding arbitration agreement.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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Because the Nichols have not demonstrated that they will raise a nonfrivolous issue on appeal,¹ their motion to proceed IFP is DENIED. *See* FED. R. APP. P. 24(a); *Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982). Because the appeal is frivolous, it is DISMISSED. *See* 5TH CIR. R. 42.2; *Baugh v. Taylor*, 117 F.3d 197, 202 & n.24 (5th Cir. 1997). All remaining motions are DENIED.

¹ The Nichols should have first moved in the district court for leave to appeal IFP. *See* FED. R. APP. P. 24(a). However, in light of the district court's assessment of sanctions against the Nichols for raising an "objectively frivolous argument" regarding the arbitration award, and in light of our determination that the appeal is frivolous, we need not remand the case to the district court.