

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

April 14, 2021

Lyle W. Cayce
Clerk

No. 20-60445

JONATHAN EDWARDS,

Petitioner—Appellant,

versus

BURL CAIN, *Commissioner, Mississippi Department of Corrections,*

Respondent—Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 2:20-CV-47

Before CLEMENT, ELROD and HAYNES, *Circuit Judges.*

PER CURIAM:*

Jonathan Edwards, Mississippi prisoner # 44510, moves for a certificate of appealability (COA) to appeal the district court's decision to grant him voluntary dismissal of his 28 U.S.C. § 2254 case, in which he sought to challenge his 2017 conviction and sentence for burglary of a dwelling in case number K15-219H. He also moves for leave to proceed in

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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forma pauperis (IFP). In seeking a COA, Edwards argues only the merits of his § 2254 claims, without raising any error regarding the voluntary dismissal of the case pursuant to Federal Rule of Civil Procedure 41(a).

“[W]e must consider the basis of our own jurisdiction, sua sponte if necessary.” *Perez v. Stephens*, 784 F.3d 276, 280 (5th Cir. 2015). The district court’s decision to grant Edwards voluntary dismissal without prejudice and without any conditions is not a final appealable decision. *See Williams v. Seidenbach*, 958 F.3d 341, 343, 349 (5th Cir. 2020) (en banc); *Mortg. Guar. Ins. Corp. v. Richard Carlyon Co.*, 904 F.2d 298, 300 (5th Cir. 1990). Accordingly, we lack jurisdiction over the appeal.

The appeal is DISMISSED for lack of jurisdiction, and Edwards’s motions for a COA and leave to proceed IFP are DENIED as moot.