United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
December 23, 2025
Lyle W. Cayce
Clerk

No. 24-40695

RODOLFO G. ROSA,

Plaintiff—Appellant,

versus

BRUCE MCFARLING, *Judge*; TRACY MURPHEE, *Sheriff*,

Defendants—Appellees,

CONSOLIDATED WITH

No. 25-40152

RODOLFO G. ROSA,

Plaintiff—Appellant,

versus

BRENT HILL, *Attorney*,

Defendant—Appellee.

Appeals from the United States District Court
for the Eastern District of Texas
USDC No. 4:23-CV-129

Before GRAVES, HO, and DOUGLAS, *Circuit Judges*.

PER CURIAM:[*]

Rodolfo G. Rosa seeks to proceed in forma pauperis (IFP) in consolidated appeals involving the dismissal of his civil rights action. His IFP motion constitutes a challenge to the district court's certification that his appeals were not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997); *see also* FED. R. APP. P. 24(a). The inquiry into an IFP movant's 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) (citation omitted).

In his IFP motion, Rosa raises the issue "[w]hether the district court erred by dismissing claims based on void judicial orders signed by judges who never filed valid constitutional oaths of office," in violation of the Texas constitution. To the extent that this argument is new, we will not consider it. *See Leverette v. Louisville Ladder Co.*, 183 F.3d 339, 342 (5th Cir. 1999). Rosa also argues in his IFP pleadings that the district court improperly applied judicial and prosecutorial immunity to ultra vires conduct beyond the lawful authority of judges and state's attorneys. However, the district court did not apply prosecutorial immunity, and Rosa does not specify any judicial acts that were ultra vires or beyond the scope of Judge Bruce McFarling's authority, nor does he otherwise address the district court's determination that his claims did not provide specificity sufficient to show that McFarling was not entitled to judicial immunity. *See Boyd v. Biggers*, 31 F.3d 279, 284-85 (5th Cir. 1994); *Arsenaux v. Roberts*, 726 F.2d 1022, 1023-24 (5th Cir. 1982). Accordingly, these arguments do not raise a nonfrivolous issue for appeal. *See Howard*, 707 F.2d at 220.

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

Rosa also argues that the district improperly applied the *Rooker-Feldman* doctrine[1] to bar review of his claim that he was denied due process in his child support enforcement action. Such constitutional questions are to be resolved by state courts, and this argument does not raise a nonfrivolous issue. *See Howard*, 707 F.2d at 220; *Liedtke v. State Bar of Texas*, 18 F.3d 315, 316-17 (5th Cir. 1994).

Additionally, Rosa contends that the district court erred in granting Sheriff Tracy Murphree qualified immunity without full factual development. However, this conclusory contention does not raise a nonfrivolous argument indicating that Rosa met his burden of showing that Murphree was not entitled to the defense of qualified immunity. *See Howard*, 707 F.2d at 220; *Morgan v. Swanson*, 659 F.3d 359, 371 (5th Cir. 2011).

Rosa also asserts in a conclusory fashion that the district court failed to apply liberal construction to his pro se pleading and that the district court dismissed his claims prematurely by not allowing amendments. Rosa's broad assertions do not raise a nonfrivolous challenge to the district court's determination that a second opportunity to amend was not warranted, nor do they raise a nonfrivolous argument showing that his pleadings were not liberally construed. *See Howard*, 707 F.2d at 220; *Haines v. Kerner*, 404 U.S. 519, 520 (1972); FED. R. CIV. P. 15(a)(1), (2); *Lowrey v. Texas A&M Univ. Sys.*, 117 F.3d 242, 245 (5th Cir. 1997).

Finally, Rosa argues that he was indigent and that the district court's denial of IFP status frustrated the purpose of 28 U.S.C. § 1915 and denied him access to the courts. However, all inmates, regardless of whether they are granted IFP status, can access the courts, and thus this argument fails to

---

[1] *See D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923).

raise a nonfrivolous issue. *See Howard*, 707 F.2d at 220; *Norton v. Dimazana*, 122 F.3d 286, 290-91 (5th Cir. 1997).

Because Rosa fails to show that his appeals raise a nonfrivolous issue, his motion to proceed IFP is DENIED, and the appeals are DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 n.24; *Howard*, 707 F.2d at 220; 5TH CIR. R. 42.2. All outstanding motions are DENIED.