

United States Court of Appeals for the Fifth Circuit

No. 25-11251
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 14, 2026

Lyle W. Cayce
Clerk

TERRENCE M. GORE,

Plaintiff—Appellant,

versus

CITY OF DESOTO, TEXAS; RACHEL L. PROCTOR, *in her individual/official capacity as Mayor*; ANDRE BYRD, SR., *in his individual/official capacity as City Councilman*; JOSEPH GORFIDA, *in his individual/official capacity as City Attorney*,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:25-CV-2802

Before STEWART, RICHMAN, and HAYNES, *Circuit Judges*.

PER CURIAM:*

Terrence M. Gore, proceeding pro se, moves for leave to proceed in forma pauperis (IFP) on appeal from the district court's (i) order denying his motion for a temporary restraining order (TRO); and (ii) order

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

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dismissing his complaint without prejudice for failure to pay the filing fee after determining that Gore was financially ineligible to proceed IFP in the district court. Gore's IFP motion is a challenge to the district court's certification that his appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

As to Gore's appeal of the district court's order denying his motion for a TRO, our jurisdiction is limited to appeals from final decisions of the district courts. 28 U.S.C. § 1291. Certain interlocutory orders pertaining to injunctions are immediately appealable under 28 U.S.C. § 1292. However, we do not have appellate jurisdiction over the denial of an application for a TRO because it does not qualify as an "injunction" under § 1292(a)(1). *See In re Lieb*, 915 F.2d 180, 183 (5th Cir. 1990); *Overton v. City of Austin*, 748 F.2d 941, 952 (5th Cir. 1984). Accordingly, Gore's appeal of the district court's order denying his motion for a TRO is DISMISSED.

As to Gore's appeal of the district court's dismissal of his complaint for failure to pay the filing fee after the court denied his IFP application, a nonfrivolous issue exists as to whether the district court's determination that Gore was ineligible to proceed IFP in the district court was erroneous or arbitrary. *Flowers v. Turbine Support Div.*, 507 F.2d 1242, 1244 (5th Cir. 1975), *superseded by statute on other grounds as recognized in Thompson v. Drewry*, 138 F.3d 984, 985-86 (5th Cir. 1998). Gore demonstrated that payment of the \$405 initial filing fee in the district court would deprive him of life's necessities and impede his ability to provide for himself and his two dependents. *See Adkins v. E.I. Du Pont de Nemours & Co.*, 335 U.S. 331, 338 (1948). Consistent with that determination, we also conclude that Gore has demonstrated that he is financially eligible to proceed IFP on appeal. *See Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982). Additional briefing is unnecessary. *See Mitchell v. Sheriff Dep't, Lubbock Cty., Tex.*, 995 F.2d 60, 61 (5th Cir. 1993).

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Accordingly, Gore's motion to proceed IFP is GRANTED. The district court's order denying Gore's IFP motion and dismissing the case without prejudice based on his failure to pay the \$405 filing fee are VACATED, and the case is REMANDED for further proceedings consistent with this opinion.