

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 27, 2026

Thomas B. Plunkett, III
Clerk

No. 26-40118

DAWN MICHELLE MOSES,

Plaintiff—Appellant,

versus

JIMMY SYLVIA, *Judge*; LARRY CRYER, *Justice of the Peace*; MICHAEL
WHEAT, *Justice of the Peace*; CINDY PRICE, *Judge*; TAMMY JENKINS;
ET AL.,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:25-CV-346

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

PER CURIAM:*

Dawn Michelle Moses seeks to proceed in forma pauperis (IFP) from the dismissal without prejudice of her complaint for failure to serve the defendants. *See* FED. R. CIV. P. 4(c)(1). To proceed IFP, Moses must demonstrate financial eligibility and the existence of any nonfrivolous issue for appeal. *See Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982); FED. R.

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

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APP. P. 24(a)(1), (5). While the district court concluded that Moses was not financially eligible to proceed IFP because her income exceeded the Federal Poverty Guideline, a review of Moses's "other demands on [her] financial resources, including whether the expenses are discretionary or mandatory," leads to a conclusion that she is financially eligible to proceed IFP. *Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir. 1988); *see also Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948).

However, Moses has failed to challenge the basis for the district court's dismissal of her complaint. Her failure to identify any error in the district court's ruling "is the same as if [s]he had not appealed that judgment." *Brinkmann v. Dallas Cnty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Although Moses contends that this court has violated the Americans with Disabilities Act (ADA) and asks us to reconsider her request for an ADA liaison, relief from formatting requirements, or permission to submit her appellate brief via email, she is unable to show that the failure to provide accommodations with respect to her already-filed brief gives rise to a nonfrivolous appellate issue. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983); *see also Tennessee v. Lane*, 541 U.S. 509, 532 (2004) (stating that due process entitles parties to a meaningful opportunity to be heard).

As Moses fails to show that her appeal raises a nonfrivolous issue, her IFP motion is DENIED, and the appeal is DISMISSED as frivolous. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.24 (5th Cir. 1997); *Howard*, 707 F.2d at 220; 5TH CIR. R. 42.2.