

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40306
Summary Calendar

EDUARDO M. BENAVIDES,

Plaintiff-Appellant,

versus

RUDY SANEZ,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-G-90-B
- - - - -

November 19, 1998

Before KING, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Eduardo M. Benavides, Texas prisoner # 378878, seeks leave to proceed in forma pauperis (IFP) in the appeal of the denial of his motion under Fed. R. Civ. P. 60(b) following the dismissal of his civil rights action. By moving for IFP, Benavides is challenging the district court's certification that IFP status should not be granted on appeal because his appeal is not taken in good faith. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

1997). Because Benavides has not demonstrated that he will raise a nonfrivolous issue on appeal, his motion to proceed IFP is DENIED. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. 5TH CIR. R. 42.2.

Benavides is cautioned that any future frivolous appeals or pleadings filed by him or on his behalf will invite the imposition of sanctions. Benavides should review any pending appeals to ensure that they do not raise arguments that are frivolous.

IFP DENIED; APPEAL DISMISSED; SANCTION WARNING ISSUED.