

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50350
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PEDRO TENORIO,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. A-96-CR-159-1
- - - - -

April 19, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:*

Pedro Tenorio seeks leave to proceed in forma pauperis ("IFP") on appeal. In his "Statement of Facts," Tenorio has failed to raise any nonfrivolous issues for appeal. See Johnson v. United States, 352 U.S. 565, 566 (1957); United States v. Boutwell, 896 F.2d 884, 889-90 (5th Cir. 1990)(one-judge order). He has waived appeal of the sentencing issues he seeks to raise by the valid waiver-of-appeal provision that was included in his plea agreement. See United States v. Portillo, 18 F.3d 290, 292 (5th Cir. 1994). Accordingly, his motion to proceed IFP on

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appeal is DENIED. Because Tenorio's appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2.