

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-10056
Summary Calendar

JONATHAN MARSHALL, SR.,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA; STATE OF TEXAS,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:97-CV-2335-H

July 24, 1998

Before JOLLY, HIGGINBOTHAM and DeMOSS, Circuit Judges.

PER CURIAM:*

Jonathan Marshall, Sr., Texas prisoner # 96032321, seeks leave to proceed in forma pauperis in the appeal of the dismissal of his civil rights complaint. The district court certified, pursuant to 28 U.S.C. § 1915(a)(3), that Marshall's appeal was not taken in good faith. Marshall's motion for IFP status is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

treated as a challenge to the district court's certification.

See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

Because Marshall fails to show that he will raise a meritorious issue on appeal, his motion to proceed IFP is DENIED.

See Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982).

The district court did not err in certifying that Marshall's appeal was frivolous and not taken in good faith. Accordingly, the appeal is DISMISSED as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); Baugh, 117 F.3d at 202 n.24 (5th Cir. 1997); 5th Cir. R. 42.2.

Because the appeal is dismissed as frivolous, Marshall's motions for preparation of the record at the Government's expense and for immediate release are DENIED as moot.

MOTIONS DENIED; APPEAL DISMISSED.