

October 24, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-10168  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RONALD JEROME FISHER, also known as La Ron,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:92-CR-10-1  
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Before JOLLY, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:\*

Ronald Jerome Fisher, federal prisoner # 20604-077, proceeding pro se, moves for leave to proceed in forma pauperis (IFP) on appeal. Fisher seeks to appeal the district court's denial of his "motion to preserve Booker\*\* issue." The district court also denied Fisher's motion for leave to proceed IFP and certified that an appeal would not be taken in good faith.

Fisher's IFP motion is a challenge to the district court's certification that his appeal was not taken in good faith. See

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

\*\* United States v. Booker, 543 U.S. 220 (2005).

Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997). He has failed to show that his appeal involves "legal points arguable on their merits (and therefore not frivolous)." Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted); see United States v. Early, 27 F.3d 140, 142 (5th Cir. 1994); In re Elwood, 408 F.3d 211, 213 (5th Cir. 2005). Accordingly, the motion for leave to proceed IFP on appeal is denied, and the appeal is dismissed as frivolous. See Baugh, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2. Fisher is warned that the filing or prosecution of frivolous appeals in the future will subject him to sanctions. See FED. R. APP. P. 38; Clark v. Green, 814 F.2d 221, 223 (5th Cir. 1987).

IFP DENIED; APPEAL DISMISSED AS FRIVOLOUS; SANCTION WARNING ISSUED.