

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-60768
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DONALD JOE SANDERS,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 3:96-CV-16-S
USDC No. 91-CR-68-B-D

June 14, 2000

Before JOLLY, DAVIS, and STEWART, Circuit Judges.

PER CURIAM:*

Donald Joe Sanders, #12556-039 seeks leave to proceed in forma pauperis ("IFP") on appeal following the district court's denial of his "Motion to File Belated Notice of Appeal." Sanders's sole relevant argument, namely that the attorney appointed to represent him at his evidentiary hearing was ineffective for not appealing from the denial of his § 2255 motion, is unavailing. Because Sanders has not demonstrated that he will raise a nonfrivolous issue on appeal, his motion to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

proceed IFP is DENIED. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2.

IFP MOTION DENIED; APPEAL DISMISSED.