IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit
F I L E D
November 11, 2009
Charles R. Fulbruge III
Clerk

No. 09-10610
Summary Calendar

ROBERT J GRODEN,

Plaintiff-Appellee

v.

D BRADLEY KIZZIA,

Appellee

JACKIE DIANE ALLEN,

Defendant-Appellee

RICHARD B TOBIAS

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:03-CV-1685

Before KING, STEWART and HAYNES, Circuit Judges.

PER CURIAM:*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Richard B. Tobias, a sanctioned litigant, moves for leave to continue his appeal and to proceed in forma pauperis (IFP) in his appeal from the district court's denial of his motion for contempt and relief from final judgment. The district court denied Tobias leave to proceed IFP on appeal, certifying that the appeal is not taken in good faith. By moving for leave to proceed IFP, Tobias is challenging that certification. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). Our inquiry into Tobias's good faith "is limited to whether the 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 omitted).

Because Tobias does not address the reasons for the district court's certification decision or the basis of the district court's denial of his motion, it is the same as if he had not appealed the judgment. *See Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987); *Baugh,* 117 F.3d at 202. He has not demonstrated that he will raise a nonfrivolous issue on appeal. *See Howard*, 707 F.2d at 219-20. Accordingly, his motion to continue his appeal and to proceed IFP is DENIED. *See Baugh*, 117 F.3d at 202 n.24. Because his appeal is frivolous, *see Howard*, 707 F.2d at 219-20, it is DISMISSED. *See* 5TH CIR. R. 42.2.