

United States Court of Appeals
Fifth Circuit**FILED**

August 21, 2006

Charles R. Fulbruge III
ClerkIN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-40031
Summary Calendar

ROQUE TERCERO-ARANDA,

Petitioner-Appellant,

versus

WILLIAM STEPHENS, Ex-Warden; JON KEY; GAINES COUNTY SHERIFF,

Respondents-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:04-CV-458

Before JOLLY, GARZA, and DENNIS, Circuit Judges.

PER CURIAM:*

Roque Tercero-Aranda, Texas prisoner # 805045, seeks leave to proceed in forma pauperis (IFP) to appeal the district court's denial of permission to proceed IFP on his putative 28 U.S.C. § 2241 petition. The district court certified that the appeal was not taken in good faith. By moving for leave to proceed IFP, Tercero-Aranda is challenging the district court's certification decision. See *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

1997); FED. R. APP. P. 24(a)(5). However, Tercero-Aranda has not demonstrated any nonfrivolous ground for appeal.

The district court denied permission to proceed IFP based on its finding that the instant petition would be duplicative of another pending petition. We agree. The instant petition is yet another attempt by Tercero-Aranda to relitigate these same issues relating to his 1993 deportation order, pending immigration detainers, and a state conviction for burglary of a habitation.

Tercero-Aranda has failed to establish that he seeks to present a nonfrivolous issue for appeal. Accordingly, his motion for IFP is denied, and the appeal is dismissed as frivolous. See Baugh, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2. Tercero-Aranda's motion for leave to proceed on the original record pursuant to FED. R. APP. P. 24(c) is denied as moot.

MOTION FOR IFP DENIED; MOTION FOR LEAVE TO PROCEED ON ORIGINAL RECORD DENIED; APPEAL DISMISSED AS FRIVOLOUS.