IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

F I L E D

June 18, 2010

No. 09-51003
Summary Calendar

Lyle W. Cayce
Clerk

LEOPOLDO GALANG LISING,

Plaintiff-Appellant

v.

NATHANIEL A. QUARTERMAN; WARDEN MARY SHELLY; MONIKA LONG; THOMAS ADU; DEBORAH ROBINSON; RACHEL WEST; DONNA COALSTON; CYNTHIA SANCHEZ; RICK THALER, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:09-CV-172

Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:[*]

Leopoldo Galang Lising, Texas prisoner # 781977, has filed an application for leave to proceed in forma pauperis (IFP) on appeal, following the district court's order granting the defendants' motion for a protective order. The order stated that the defendants were not required to respond to any discovery

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

requests propounded by Lising until the issues of qualified and Eleventh Amendment immunity were resolved.

We must examine the basis of our jurisdiction sua sponte if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). Discovery orders incident to a pending action are interlocutory and, ordinarily, are not appealable. *Texaco Inc. v. La. Land & Exploration Co.*, 995 F.2d 43, 44 (5th Cir. 1993). Discovery orders, however, are appealable under the collateral-order doctrine if the order denies a defendant's claim of qualified immunity. *Liberty Mut. Ins. Co. v. La. Dep't of Ins.*, 62 F.3d 115, 117 (5th Cir. 1995).

The district court's order did not deny the defendants' claims of qualified immunity. Accordingly, we are without jurisdiction, and the appeal is dismissed. Lising's motion to proceed IFP on appeal is denied.

APPEAL DISMISSED; MOTION DENIED.