IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit
FILED
September 3, 2013
Lyle W. Cayce
Clerk

No. 13-60061
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOHNATHAN EARL TEEGARDEN,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:09-CV-678

Before JONES, CLEMENT and PRADO, Circuit Judges.

PER CURIAM:[*]

Johnathan Earl Teegarden, federal prisoner # 15041-043, is serving a 130-month sentence of imprisonment, which was imposed in September 2008 following his guilty plea conviction of conspiracy to possess with intent to distribute 100 kilograms or more of marijuana. Teegarden did not file a direct appeal, and his 28 U.S.C. § 2255 motion was denied.

After being denied authorization to file a successive § 2255 motion, *see In re Teegarden*, No. 12-60499 (5th Cir. Sept. 5, 2012) (unpublished), Teegarden

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

then filed in the district court a "Motion for Order to Suppress Evidence" and a "Motion for Relief from Waiver and Application to Submit a Motion to Suppress." In these filings, Teegarden contended that his Fourth Amendment rights had been violated in connection with the seizure of the marijuana. He asserted that his trial counsel had been ineffective for failing to file a suppression motion, and relying on Federal Rule of Criminal Procedure 12, he argued that he should now be allowed to file a motion to suppress. Teegarden indicated that he was not seeking relief under § 2255. The district court determined that Teegarden's motions were not properly before it, and it denied them.

Teegarden has moved for a certificate of appealability (COA), However, as Teegarden is not seeking to appeal the final order in a § 2255 proceeding, he need not obtain a COA. *See* 28 U.S.C. § 2253(c)(1)(B). Accordingly, his request for a COA is denied as unnecessary.

Again invoking Rule 12, Teegarden argues that he should be permitted to seek suppression of evidence. However, Rule 12 deals with pleadings and pretrial motions, and it does not permit a prisoner such as Teegarden, whose conviction is final, to reopen his criminal case to seek suppression of evidence. Teegarden has appealed from the denial of meaningless, unauthorized motions which the district court was without jurisdiction to consider. *See United States v. Early*, 27 F.3d 140, 142 (5th Cir. 1994). As he has not demonstrated that he has a nonfrivolous issue for appeal, Teegarden's motion to proceed in forma pauperis (IFP) is denied. *See Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982); FED. R. APP. P. 24(a)(1). The appeal is dismissed as frivolous. *See* 5TH CIR. R. 42.2.

Teegarden's repetitive attempts to obtain relief under different provisions demonstrate a disregard for the strain on judicial resources caused by his motions and appeals. He is hereby warned that any future frivolous or repetitive filings in this court or any court subject to this court's jurisdiction will invite sanctions, including monetary penalties and limits on his access to federal court.

We hereby instruct Teegarden to review all pending matters to ensure that they are not frivolous or repetitive.

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