

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

December 15, 2011

No. 11-50200
Summary Calendar

Lyle W. Cayce
Clerk

CURTIS CHANCE,

Petitioner-Appellant

v.

JANET NAPOLITANO, SECRETARY, DEPARTMENT OF HOMELAND SECURITY; WARDEN GARY GOMEZ, South Texas Detention Complex; MICHAEL J. PITTS, Field Office Director for Detention and Removal; JULIE L. MYERS, Assistant Secretary, United States Immigration and Customs Enforcement; ERIC H. HOLDER, JR., U. S. ATTORNEY GENERAL,

Respondents-Appellees

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:10-CV-596

Before HIGGINBOTHAM, DAVIS, and ELROD, Circuit Judges.

PER CURIAM:*

Curtis Chance, immigration detainee # A036 427 254, has filed a motion for leave to proceed in forma pauperis (IFP) on appeal following the denial of his Federal Rule of Civil Procedure 60(b) motion. The district court denied Chance's IFP motion and certified that the appeal was not taken in good faith. By moving

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 11-50200

for IFP status, Chance is challenging the district court's certification. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

Chance had not been in post-removal-order detention longer than the presumptively reasonable six-month period set forth in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Consequently, the district court did not err in finding that his challenge to his continued post removal detention was premature. *See id*; *Okpoju v. Ridge*, 115 F. App'x 302, 302 (5th Cir. 2004) (unpublished). Nor did the district court err in finding that it lacked jurisdiction over Chance's challenge to the underlying order of removal. *See Rosales v. Bureau of Immigration and Customs Enforcement*, 426 F.3d 733, 735-36 (5th Cir. 2005); 8 U.S.C. § 1252(a)(5).

Chance has not demonstrated that he will raise a nonfrivolous issue on appeal. *See Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, his motion 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, his appeal is dismissed. *See* 5TH CIR. R. 42.2. His motions for stay of deportation and appointment of counsel are also denied.

MOTIONS DENIED; APPEAL DISMISSED.