

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

No. 17-20702

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

HOWARD GRANT,

Defendant - Appellant

Appeal from the United States District Court
for the Southern District of Texas

ON PETITION FOR REHEARING

Before SMITH, HIGGINSON, and DUNCAN, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED.

ENTERED FOR THE COURT:



UNITED STATES CIRCUIT JUDGE

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

United States Court of Appeals
Fifth Circuit

FILED

October 19, 2018

Lyle W. Cayce
Clerk

No. 17-20702
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellant

v.

HOWARD GRANT,

Defendant-Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:17-CV-1498

Before SMITH, HIGGINSON, and DUNCAN, Circuit Judges.

PER CURIAM:*

Howard Grant, former federal prisoner # 43671-279, moves for leave to proceed in forma pauperis (IFP) in this appeal from the dismissal of his petition for a writ of coram nobis for relief from his jury trial convictions and sentences for conspiring to commit health care fraud and for aiding and abetting. *See* 28 U.S.C. § 1651(a). Grant's IFP motion in this court constitutes a challenge to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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the district court's certification that the appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

Grant does not show that his appeal is in good faith, i.e., that the appeal raises legal points arguable on the merits and thus nonfrivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Therefore, we will deny the IFP motion and sua sponte dismiss this frivolous suit. *See Baugh*, 117 F.3d at 202; *Howard*, 707 F.2d at 220; 5TH CIR. R. 42.2.

This court warned Grant, before he initiated this suit, that frivolous, repetitive, or otherwise abusive filings would invite the imposition of sanctions, possibly including dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction. Therefore, a monetary sanction of \$300, payable to the clerk of this court, is IMPOSED on Grant. Additionally, Grant is BARRED from filing, in this court or any court subject to this court's jurisdiction, any challenge to his convictions or sentences until the sanction is paid in full unless he first obtains leave of the court in which he seeks to file such a challenge. Grant is WARNED that any additional frivolous challenges to his convictions or sentences in this court or any court subject to this court's jurisdiction will subject him to additional and progressively more severe sanctions. *See In re Lampton*, 667 F.3d 585, 590 (5th Cir. 2012).

APPEAL DISMISSED AS FRIVOLOUS; IFP MOTION DENIED; SANCTION AND BAR IMPOSED; ADDITIONAL SANCTION WARNING ISSUED.