

APPENDIX A

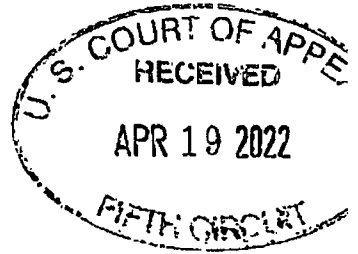
FORM 4 AFFIDAVIT ACCOMPANYING MOTION FOR
PERMISSION TO APPEAL IN FORMA PAUPERIS

United States District Court for the ^{EASTERN} District of Texas

Adams

v. Beusch

Case No. 22-40054



<p>Affidavit in Support of Motion</p> <p>I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C § 1621.)</p> <p>Signed: <u>[Signature]</u></p>	<p>Instructions</p> <p>Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.</p> <p>Date: <u>4-12-22</u></p>
---	---

My issues on appeal are: Actual Innocence The case was overturned "wrongfully convicted"

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Self-employment	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Interest and dividends	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Gifts	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Alimony	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Child support	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Other (specify): <u>Stimulus</u>	\$ <u>3200</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Total monthly income:	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>

APPENDIX B

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

April 25, 2022

#1181239
Mr. Alex Adams
CID Coffield Prison
2661 FM 2054
Tennessee Colony, TX 75884-0000

No. 22-40054 Adams v. Beusch
USDC No. 6:21-CV-334

Dear Mr. Adams,

You your "Form 4, Affidavit Accompanying Motion to Permission to Appeal In Forma Pauperis (IFP)" together with a series of other items have been received and will be addressed as follows. The first page of the IFP form is enclosed for you to complete and return. You must include on the form, your *issues on appeal* as indicated. You have until May 5, 2022, to return the completed page to us.

Also received with the form above, was a "Motion to Present Exhibits." No action will be taken because it is unrelated to this appeal. There is no question of whether you paid the docketing fees for your complaint in district court since you are required to either pay a subsequent and separate filing fee, or seek leave to proceed IFP for *this* appeal.

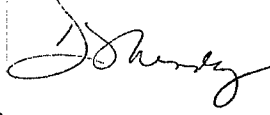
No action will be taken on the "Motion to Present Exhibits Notice to Court" referencing a district court case no. 6:22-cv-78 because that case is not before this court on appeal.

No action will be taken on the "Notice to Court, a Sincere Plea for Mercy, Help, Deliverance, Motion for Appointment of Counsel" which refers to two separate appeal numbers; this appeal and appeal no. 22-400638, together with 8 different district court case numbers. We do not accept wholesale filings. The appellate case numbers listed as not consolidated and will require separate filings as to each appeal; and the series of district court case numbers are not a part of this appeal.

No action will be taken on the 74 pages of exhibits provided as the purpose of the voluminous collection of items from multiple cases is unnecessary. If you want the items returned to you, a self-addressed stamped envelope with adequate postage to cover the cost of mailing them back will be required.

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in dark ink, appearing to read "L. Cayce", written over a faint rectangular box.

By: _____
Donna L. Mendez, Deputy Clerk
504-310-7677

Enclosure

United States Court of Appeals

**FIFTH CIRCUIT
OFFICE OF THE CLERK**

**LYLE W. CAYCE
CLERK**

**TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130**

April 25, 2022

#1181239
Mr. Alex Adams
CID Coffield Prison
2661 FM 2054
Tennessee Colony, TX 75884-0000

No. 22-40054 Adams v. Beusch
USDC No. 6:21-CV-334

Dear Mr. Adams,

You your "Form 4, Affidavit Accompanying Motion to Permission to Appeal In Forma Pauperis (IFP)" together with a series of other items have been received and will be addressed as follows. The first page of the IFP form is enclosed for you to complete and return. You must include on the form, your *issues on appeal* as indicated. You have until May 5, 2022, to return the completed page to us.

Also received with the form above, was a "Motion to Present Exhibits." No action will be taken because it is unrelated to this appeal. There is no question of whether you paid the docketing fees for your complaint in district court since you are required to either pay a subsequent and separate filing fee, or seek leave to proceed IFP for *this* appeal.

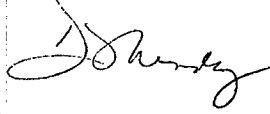
No action will be taken on the "Motion to Present Exhibits Notice to Court" referencing a district court case no. 6:22-cv-78 because that case is not before this court on appeal.

No action will be taken on the "Notice to Court, a Sincere Plea for Mercy, Help, Deliverance, Motion for Appointment of Counsel" which refers to two separate appeal numbers; this appeal and appeal no. 22-400638, together with 8 different district court case numbers. We do not accept wholesale filings. The appellate case numbers listed as not consolidated and will require separate filings as to each appeal; and the series of district court case numbers are not a part of this appeal.

No action will be taken on the 74 pages of exhibits provided as the purpose of the voluminous collection of items from multiple cases is unnecessary. If you want the items returned to you, a self-addressed stamped envelope with adequate postage to cover the cost of mailing them back will be required.

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in cursive script, appearing to read "L. Cayce", written over a vertical dashed line.

By: _____
Donna L. Mendez, Deputy Clerk
504-310-7677

Enclosure

APPENDIX C

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

February 02, 2022

#1181239
Mr. Alex Adams
CID Coffield Prison
2661 FM 2054
Tennessee Colony, TX 75884-0000

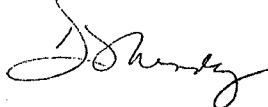
No. 22-40054 Adams v. Beusch
USDC No. 6:21-CV-334

Dear Mr. Adams,

We received your "Motion for COA with Brief in Support and Exhibits." No action on this motion as a COA is not required in this type of appeal.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Donna L. Mendez, Deputy Clerk
504-310-7677

APPENDED

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

June 07, 2022

#1181239
Mr. Alex Adams
CID Coffield Prison
2661 FM 2054
Tennessee Colony, TX 75884-0000

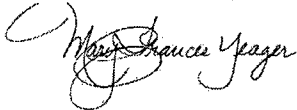
No. 22-40054 Adams v. Beusch
USDC No. 6:21-CV-334

Dear Mr. Adams,

The motion to appoint counsel is filed and will be submitted to the court along with the motion to proceed in forma pauperis in accordance with PLRA.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Mary Frances Yeager, Deputy Clerk
504-310-7686

APPENDIX E

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

August 26, 2022

#1181239
Mr. Alex Adams
CID McConnell Prison
3001 S. Emily Drive
Beeville, TX 78102-0000

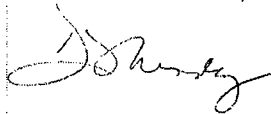
No. 22-40054 Adams v. Beusch
USDC No. 6:21-CV-334

Dear Mr. Adams,

We received your "Motion to Press Charges and Notice of Change of Address." The address on file has been updated as requested. No action will be taken on the request to press charges as this court does not press charges. You are reminded that this is a court of review; which means, we only consider evidence or argument that was previously before the district court at this time of the challenged ruling, which has been brought before this court on appeal.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Donna L. Mendez, Deputy Clerk
504-310-7677

APPENDIX F

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 27, 2022

Lyle W. Cayce
Clerk

No. 22-40054

ALEX ADAMS,

Plaintiff—Appellant,

versus

UNKNOWN BEUSCH, *Sergeant*; UNKNOWN BOYKIN, *Sergeant*;
UNKNOWN BLAIR, *Sergeant*; UNKNOWN LANE, *Warden*; UNKNOWN
BACK,

Defendants—Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:21-CV-334

Before STEWART, DENNIS, and WILLETT, *Circuit Judges.*

PER CURIAM:*

Alex Adams, Texas prisoner # 1181239, requests leave to proceed in forma pauperis (IFP) in this appeal of the dismissal of his 42 U.S.C. § 1983 suit without prejudice for want of prosecution pursuant to Federal Rule of

* Pursuant to 5TH CIRCUIT RULE 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 CIRCUIT RULE 47.5.4.

Civil Procedure 41(b). He also moves for appointment of counsel and leave to file exhibits.

To proceed IFP, Adams must demonstrate financial eligibility and a nonfrivolous issue for appeal. *See Jackson v. Dall. Police Dep't*, 811 F.2d 260, 261 (5th Cir. 1986). Adams has not shown that payment of the \$505 appellate filing fee would result in undue hardship or deprivation of the necessities of life. *See* 28 U.S.C. § 1915(a)(2); *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

Moreover, we may sua sponte dismiss an appeal as frivolous. *See* 5TH CIR. R. 42.2; *see also Baugh v. Taylor*, 117 F.3d 197, 202 n.24 (5th Cir. 1997). In this case, Adams failed to comply with two court orders over the course of five months, despite receiving multiple warnings of the possibility of dismissal if he failed to comply. Therefore, he cannot make a nonfrivolous attempt to show that the district court abused its discretion by dismissing his case without prejudice. *See Larson v. Scott*, 157 F.3d 1030, 1032 (5th Cir. 1998); *McNeal v. Papasan*, 842 F.2d 787, 789-90 (5th Cir. 1988).

Because Adams has not demonstrated financial eligibility and that his appeal involves “legal points arguable on their merits,” *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted), his motion to proceed IFP is DENIED, and the appeal is DISMISSED as frivolous. *See* 5TH CIR. R. 42.2. His motions to appoint counsel and for leave to file exhibits are DENIED as moot.

APPENDIX 6

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

October 27, 2022

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 22-40054 Adams v. Beusch
USDC No. 6:21-CV-334

Enclosed is a copy of the court's decision. The court has entered judgment under **FED. R. APP. P. 36**. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

FED. R. APP. P. 39 through **41**, and **5TH CIR. R. 35**, **39**, and **41** govern costs, rehearings, and mandates. **5TH CIR. R. 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following **FED. R. APP. P. 40** and **5TH CIR. R. 35** for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. **5TH CIR. R. 41** provides that a motion for a stay of mandate under **FED. R. APP. P. 41** will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under **FED. R. APP. P. 41**. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you **MUST** confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

ABUNDANT

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

December 08, 2022

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 22-40054 Adams v. Beusch
 USDC No. 6:21-CV-334

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

Rebecca L. Leto

By: _____
Rebecca L. Leto, Deputy Clerk
504-310-7703

Mr. Alex Adams
Mr. David O'Toole

United States Court of Appeals for the Fifth Circuit

No. 22-40054

ALEX ADAMS,

Plaintiff—Appellant,

versus

UNKNOWN BEUSCH, *Sergeant*; UNKNOWN BOYKIN, *Sergeant*;
UNKNOWN BLAIR, *Sergeant*; UNKNOWN LANE, *Warden*;
UNKNOWN BACK,

Defendants—Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:21-CV-334

ORDER:

IT IS ORDERED that the motion for the appointment of counsel is
DENIED.

/s/ James L. Dennis
JAMES L. DENNIS
United States Circuit Judge

APPENDIX B

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

December 08, 2022

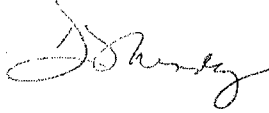
MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 22-40054 Adams v. Beusch
USDC No. 6:21-CV-334

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Donna L. Mendez, Deputy Clerk
504-310-7677

Mr. Alex Adams

United States Court of Appeals
for the Fifth Circuit

No. 22-40054

ALEX ADAMS,

Plaintiff—Appellant,

versus

UNKNOWN BEUSCH, *Sergeant*; UNKNOWN BOYKIN, *Sergeant*;
UNKNOWN BLAIR, *Sergeant*; UNKNOWN LANE, *Warden*;
UNKNOWN BACK,

Defendants—Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:21-CV-334

ON PETITION FOR REHEARING

Before STEWART, DENNIS, and WILLETT, *Circuit Judges*.

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:21-cv-00334

Alex Adams,
Plaintiff,

v.

Sgt. Beusch et al.,
Defendants.

ORDER


Plaintiff Alex Adams, an inmate of the Texas Department of Criminal Justice – Correctional Institutions Division proceeding pro se, filed this civil action complaining of alleged deprivations of his constitutional rights. The magistrate judge ordered plaintiff to pay an initial partial filing fee of \$212.00. By separate order, the magistrate judge directed plaintiff to file an amended complaint setting out a short and plain statement of his claims. When plaintiff did not comply with these orders, the magistrate judge issued a report recommending dismissal of the lawsuit for failure to prosecute or to obey an order of the court.

Plaintiff filed objections saying he did not want the court to ask him to amend his complaint and that he has submitted a request for payment of the filing fee, pointing to an I-60 request form he sent to the inmate trust department. The response to this form advised plaintiff that court fees could only be withdrawn with a court order or an initial partial fee payment authorization. Otherwise, the department would process the I-25 [i.e. an inmate request for withdrawal form] as soon as possible when it is received. Plaintiff does not provide a valid basis for failing to amend his complaint as ordered, nor has he shown he followed proper procedures in requesting the withdrawal from his account.

The court reviews the objected-to portions of a report and recommendation de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996).

Having reviewed the magistrate judge's report and the objections de novo, the court overrules the plaintiff's objections and accepts the report's findings and recommendations. The court orders that the above styled civil action is dismissed without prejudice for failure to prosecute or to obey an order of the court.

So ordered by the court on January 13, 2022.



J. CAMPBELL BARKER
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:21-cv-00334

Alex Adams,
Plaintiff,


v.

Sgt. Beusch et al.,
Defendants.

FINAL JUDGMENT

The court, having considered plaintiff's action, hereby enters judgment that all claims in the matter are dismissed without prejudice. All pending motions are denied as moot. The clerk of court is directed to close this case.

So ordered by the court on January 13, 2022.



J. CAMPBELL BARKER
United States District Judge

**Additional material
from this filing is
available in the
Clerk's Office.**