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ORIGINAL

From: Mr. Cornel Jackie Drummer  
TDCJ-ID-NO. # 00619316  
John B. Connally Unit  
899 F.M. 632  
Kenedy, Texas, 78119

FILED  
JUN 14 2023  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

June 6, 2023

To: Mr. Scott S. Harris: Clerk  
United States Supreme Court  
1 1st Street NE  
Washington, D.C. 20543-0001  
(202) 479-3000

In re: Judicial Notice to file Writ of Certorari to the United States Supreme Court from an ORDER of the United States Court of Appeals, Fifth Circuit dismissing Plaintiff's 42 U.S.C. § 1983 Civil Rights Complaint Cornel Jackie Drummer vs. Ken Maynard under USDC No. 3:19-CV-387, Appeal No. # 22-40449-United States District Court for the Southern District of Texas, Galveston Division/ Petition for Extension of Time to file Writ of Certorari

Dear Clerk:

In reference to the above-please let this Judicial Notice serve to inform this Honorable Court of my desires to seek an appeal by way of Writ of Certorari to the United States Supreme Court from a decision of the United States District Court for the Southern District of Texas at Galveston dismissing the Plaintiff's 42 U.S.C. § 1983-Civil Rights Complaint "Cornel Jackie Drummer vs. Ken Maynard.

Please note, the Plaintiff is not skilled in the legal process as a skilled attorney in this area-and is without the legal representation of an attorney to assist him in this matter.

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With this in mind, Plaintiff is asking for extension of time to research case law in this area and to prepare his Writ of Certorari to be filed in said Court for the prupose of consideration on a legal question of United States Law whether the Plaintiff has been denied of a valuable right afforded him by the Laws of the United States Constitution under "Civil' or"Criminal" Statutes?

Please bring this matter to the attention of the United States Supreme Court so that it may take the necessary steps in determining whether the Plaintiff meets the criteria of said Court of said process.

Thank you for your attention in this matter.

Sincerely



Mr. Cornel Jackie Drummer  
TDCJ-ID-NO.# 00619316  
John B. Connally Unit  
899 F.M. 632  
Kenedy, Texas, 78119

**United States Court of Appeals  
for the Fifth Circuit**

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No. 22-40449

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United States Court of Appeals  
Fifth Circuit

**FILED**

May 22, 2023

Lyle W. Cayce  
Clerk

CORNEL JACKIE DRUMMER,

*Plaintiff—Appellant,*

*versus*

KEN MAYNARD, III; AARON MOHANTLY; DR. HAGUE, *Medical  
Doctor*; UNIVERSITY OF TEXAS MEDICAL BRANCH MEDICAL  
STAFF, *George Beto Unit*,

*Defendants—Appellees.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 3:19-CV-387

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Before ELROD, GRAVES, and HO, *Circuit Judges.*

PER CURIAM:\*

Cornel Jackie Drummer, Texas prisoner # 00619316, appeals from the dismissal of his civil rights action as frivolous and for failure to state a claim on which relief may be granted. Drummer filed the action pursuant to 42 U.S.C. § 1983 to complain of alleged deliberate indifference to his serious

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 22-40449

medical needs. Currently pending before this court are several motions filed by Drummer.

Because Drummer has not shown exceptional circumstances, his motion for the appointment of counsel is DENIED. *See Ulmer v. Chancellor*, 691 F.2d 209, 212-13 (5th Cir. 1982). Drummer recently paid the appellate filing fee, and therefore his motion to proceed in forma pauperis (IFP) on appeal is DENIED as moot. Drummer's two motions for judicial notice are also DENIED.

An appeal should be dismissed upon the hearing of any interlocutory motion where "it appears to the court that the appeal is frivolous and entirely without merit." 5TH CIR. R. 42.2. Our thorough examination of Drummer's brief and the record reveals no nonfrivolous issue. The brief raises only one concrete argument. Contrary to Drummer's contention, the district court did not err by dismissing his civil action sua sponte without ordering a response from the defendants. *See Green v. McKaskle*, 788 F.2d 1116, 1119 (5th Cir. 1986); 28 U.S.C. § 1915(e)(2)(B)(ii). Because Drummer's appeal is frivolous and without any arguable merit, it is DISMISSED. *See* 5TH CIR. R. 42.2.

The district court's dismissal counts as one strike under § 1915(g), and Drummer incurs an additional strike for this frivolous appeal. *See Adepegba v. Hammons*, 103 F.3d 383, 388 (5th Cir. 1996), *abrogated in part on other grounds by Coleman v. Tollefson*, 575 U.S. 532, 537 (2015). Drummer is WARNED that if he accumulates three strikes, he will no longer be allowed to proceed in forma pauperis in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious bodily injury. *See* § 1915(g).

**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

May 22, 2023

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

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

No. 22-40449 Drummer v. Maynard  
USDC No. 3:19-CV-387

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.

Sincerely,

LYLE W. CAYCE, Clerk

*Dantrell Johnson*

By: \_\_\_\_\_  
Dantrell L. Johnson, Deputy Clerk

Enclosure(s)

Mr. Cornel Jackie Drummer