

APPENDIX L

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

Appeal No. 24-20040

Judge's court order due to the
lack of jurisdiction and no
~~final~~ final judgment from the
United States District Court for
the Southern District of Texas in
the Houston Division in Case
No. 4:23-cv-04569

Date: October 15, 2024

United States Court of Appeals for the Fifth Circuit

No. 24-20040
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 15, 2024

Lyle W. Cayce
Clerk

PATRICK BERNARD SMITH,

Petitioner—Appellant,

versus

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,
Correctional Institutions Division,*

Respondent—Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:23-CV-4569

Before KING, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

The district court interpreted a letter from Patrick Bernard Smith, Texas prisoner # 00896428, as seeking to file a Section 2254 application. The court informed Smith of the steps needed to complete the opening of such proceedings. Smith informed the court that he did not intend to file such an

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

No. 24-20040

application, and the court ordered that the case be administratively closed. Smith appealed and later filed a motion to amend his appellate brief.

This court must consider whether it has jurisdiction to review the merits of an appeal. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). We have jurisdiction to review (1) final decisions under 28 U.S.C. § 1291, (2) certain interlocutory decisions under 28 U.S.C. § 1292(a); and (3) interlocutory orders certified as final under Federal Rule of Civil Procedure 54(b) or as appealable under § 1292(b). *United States v. Powell*, 468 F.3d 862, 863 (5th Cir. 2006). We may also review certain decisions under the collateral order doctrine. *See Martin v. Halliburton*, 618 F.3d 476, 481-82 (5th Cir. 2010). The district court's order is not a final decision, *see Sammons v. Economou*, 940 F.3d 183, 186 (5th Cir. 2019), nor does it fall within any of the other categories of appealable orders.

Consequently, the appeal is DISMISSED for lack of jurisdiction. The motion to amend is DENIED as moot.

APPENDIX - A

United States District Court Southern
District of Texas In Case:
No. 4:23-cv-04569
Order Administrative Close

ENTERED

December 19, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PATRICK BERNARD SMITH,

Petitioner,

VS.

BOBBY LUMPKIN,

Respondent.

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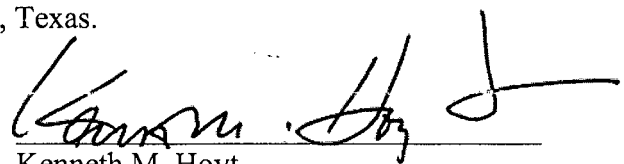
CIVIL ACTION NO. 4:23-CV-04569

ORDER

Patrick Bernard Smith, proceeding *pro se*, filed a document which the Clerk's Office docketed as a petition for a writ of habeas corpus. Smith has now written a letter explaining that his initial filing was intended as a letter seeking information, not as a petition for a writ of habeas corpus. *See* Doc. # 4. Because this case was opened in error, it is ORDERED that the case is ADMINISTRATIVELY CLOSED.

It is so ORDERED.

SIGNED on December 19, 2023, at Houston, Texas.



Kenneth M. Hoyt
United States District Judge

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