

# APPENDIX L

United States Court of Appeals  
Fifth Circuit

Appeal No. 24-20040

Judges 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

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No. 24-20040  
Summary Calendar

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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.*

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

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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

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\* 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 re:

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.

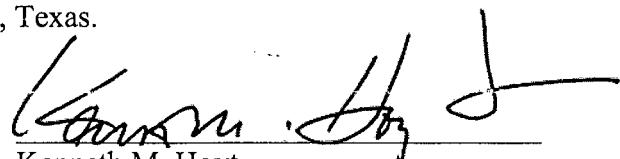
§ CIVIL ACTION NO. 4:23-CV-04569

**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  
Kenneth M. Hoyt  
United States District Judge

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