

Appendix

Exhibits #1 - #3

Exhibit # 2

Order of Judge Mark Pittman

on July 2 2024

4:24 CV 0614 (A)

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

MICHAEL A. POWELL,
INSTITUTIONAL ID NO. 01342523,

Petitioner,

v.

No. 4:24-cv-0614-P

THE STATE OF TEXAS,

Respondent.

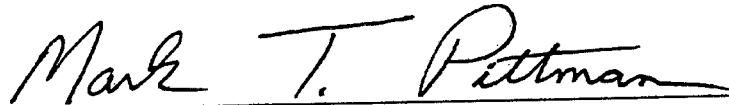
ORDER

Petitioner Michael A. Powell, a state prisoner proceeding pro se, filed a pleading that the Court construes as petition for a writ of habeas corpus under 28 U.S.C. § 2254. However, because Powell has not paid the \$5 filing fee or filed an application to proceed *in forma pauperis* (IFP), this action shall not commence. See 28 U.S.C. §§ 1914, 1915. In addition, Powell did not file his petition on the proper form. See N.D. Tex. Misc. Order No. 13.

If Powell intends to proceed with this action, he must do the following within 30 days: (1) either pay the \$5 filing fee or file an IFP application accompanied by a certificate of inmate trust account;¹ and (2) file his petition on the proper form. The forms necessary to comply with this order are available in the law library of the prison unit where Powell is confined.

If Powell fails to timely and fully comply with this order, the Court will dismiss this action without further notice for failure to prosecute. See FED. R. CIV. P. 41(b).

SO ORDERED on this 2nd day of July 2024.



Mark T. Pittman
UNITED STATES DISTRICT JUDGE

¹A prisoner seeking to bring a civil action without prepayment of filing fees must submit a certified copy of his trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the filing of the complaint. See 28 U.S.C. § 1915(a)(2). The trust fund account statement must be certified by and obtained from the appropriate official of the institution where the prisoner is confined. *Id.*

Exhibit #3

order of the 5th
Circuit Court of Appeals
on December 9, 2024

Nb - 24-10702

United States Court of Appeals
for the Fifth Circuit

No. 24-10702

United States Court of Appeals
Fifth Circuit

FILED

December 9, 2024

Lyle W. Cayce
Clerk

MICHAEL A. POWELL,

Petitioner—Appellant,

versus

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,*
Correctional Institutions Division; STATE OF TEXAS,

Respondents—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CV-614

Before JONES, DUNCAN, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Michael A. Powell, Texas prisoner # 01342523, commenced the underlying action by filing a self-described motion under Federal Rule of Civil Procedure 60(b), seeking to have the district court, inter alia, set aside an order issued by the Texas Court of Criminal Appeals denying him postconviction relief. The district court entered an order construing

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

No. 24-10702

Powell's pleading as a 28 U.S.C. § 2254 application and requiring that he "file his [application] on the proper form." Powell filed a notice of appeal from that order and now moves for leave to proceed in forma pauperis (IFP) on appeal. He has also filed a motion for leave to file a supplemental 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); see *Briargrove Shopping Ctr. Joint Venture v. Pilgrim Enters., Inc.*, 170 F.3d 536, 538-39 (5th Cir. 1999). 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 at issue here is not a final decision, nor does it fall within any of the other categories of appealable orders.

Accordingly, Powell's motion to proceed IFP is DENIED, and his appeal is DISMISSED for lack of jurisdiction. See *Briargrove*, 170 F.3d at 538-39. The motion for leave to file a supplemental brief is DENIED as moot.

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