

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

January 4, 2013

Lyle W. Cayce
Clerk

No. 12-40145
Summary Calendar

DAVID RASHEED ALI,

Plaintiff-Appellant

v.

NATHANIEL QUARTERMAN; RICK THALER, DIRECTOR, TEXAS
DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS
DIVISION,

Defendants-Appellees

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:09-CV-52

Before SMITH, PRADO, and HIGGINSON, Circuit Judges.

PER CURIAM:*

David Rasheed Ali, Texas prisoner # 1077767, appeals from the district court's denial of the motion for temporary restraining order that he filed in this civil rights action. He also moves this court for an expedited appeal or, alternatively, for the appointment of counsel.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 12-40145

This court must examine the basis of its jurisdiction sua sponte if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). Because Ali seeks to appeal the denial of a temporary restraining order, we lack jurisdiction to entertain the appeal. *See Faulder v. Johnson*, 178 F.3d 741, 742 (5th Cir. 1999); *In re Lieb*, 915 F.2d 180, 183 (5th Cir. 1990).

The district court is reminded of this court's prior directive that, on remand, it should reexamine Ali's motion for preliminary injunctive relief, filed in March 2009, as that motion concerns his claim challenging, pursuant to the Religious Land Use and Institutionalized Persons Act of 2000, the grooming policy of the Texas Department of Criminal Justice. *See Ali v. Quarterman*, 434 F. App'x 322, 326 (5th Cir. 2011).

APPEAL DISMISSED; MOTION DENIED.

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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January 04, 2013

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW
Regarding: Fifth Circuit Statement on Petitions for Rehearing or
Rehearing En Banc
No. 12-40145, David Ali v. Nathaniel Quarterman, et al
USDC No. 9:09-CV-52

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. RULES 35, 39, and 41 govern costs, rehearings, and mandates. **5TH CIR. RULES 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.

Sincerely,
LYLE W. CAYCE, Clerk

By: 
Rhonda M. Flowers, Deputy Clerk

Enclosure(s)
Mr. David Rasheed Ali
Ms. Marjolyn Carol Gardner
Mr. Gerald O'Ryan McMillan
Mr. John-Robert Skrabanek