

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-30861
Conference Calendar

MICHAEL HAYES,

Petitioner-Appellant,

versus

JOHN ASHCROFT, ATTORNEY GENERAL,
through the U.S. Marshal Service;
EDGAR C. DAY, JR., Warden; JILL M.
PROSPER, Specialist for the United
States Marshal Service,

Respondents-Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 01-CV-1312-B

April 11, 2002

Before SMITH, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Michael Hayes, Louisiana state prisoner # 379829, appeals from the denial of his 28 U.S.C. § 2241 petition for failure to exhaust administrative remedies. In addition to his original brief, Hayes has submitted an untimely reply brief and a motion to file same. The motion is GRANTED.

Hayes did not brief the exhaustion of remedies issue in his original brief. Because Hayes has failed to brief the only

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appealable issue, it is deemed abandoned. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993)(although pro se pleadings must be liberally construed, arguments not briefed on appeal are deemed abandoned). We cannot consider the arguments made in Hayes' reply brief as to the exhaustion issue. "This Court will not consider a claim raised for the first time in a reply brief." Id. at 225. This appeal is without arguable merit and thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, it is DISMISSED. See 5TH CIR. R. 42.2.

APPEAL DISMISSED; MOTION GRANTED.