

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

October 3, 2006

Charles R. Fulbruge III  
Clerk

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No. 06-40122  
Summary Calendar

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BRYAN PATRICK,

Plaintiff-Appellant,

versus

U.S. ATTORNEY JANE J. BOYLE; ASSISTANT FEDERAL ATTORNEY JASON  
HAWKINS; ADMINISTRATOR FRANK HOKE,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
No. 6:05-CV-32  
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Before SMITH, WIENER, and OWEN, Circuit Judges.

PER CURIAM:\*

State prisoner Bryan Patrick moves for leave to proceed in forma pauperis ("IFP") on appeal following the dismissal, as frivolous, of his 42 U.S.C. § 1983 civil rights complaint. See 28 U.S.C. § 1915(e)(2)(B)(i). We construe the motion as a challenge to the district court's determination that the appeal is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

not taken in good faith. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

Contrary to Patrick's argument, the district court's written reasons sufficiently show that its certification decision was based on its conclusion that the underlying complaint is frivolous. See id. at 202 n.21. Patrick's argument that denial of IFP status would deny him access to the courts also is meritless. See Day v. Allstate Ins. Co., 788 F.2d 1110, 1114 (5th Cir. 1986); Carson v. Johnson, 112 F.3d 818, 821 (5th Cir. 1997).

Patrick's motion does not directly challenge the district court's reasons for finding his complaint frivolous. Failure to identify an error in the district court's analysis has the same effect as though the appellant had not appealed at all. Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). Although pro se briefs are liberally construed, even pro se litigants must brief arguments to preserve them. Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993).

The instant appeal is without arguable merit and is frivolous. Accordingly, Patrick's request for IFP status is denied, and the appeal is dismissed. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. Patrick is cautioned that the dismissal of his complaint by the district court and our dismissal of this appeal as frivolous both count as strikes under 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). Patrick also is cautioned that if he accumulates three strikes under § 1915(g), he may not proceed IFP in any civil action

or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. See § 1915(g).

MOTION FOR IFP DENIED; APPEAL DISMISSED AS FRIVOLOUS; SANCTION WARNING ISSUED.