

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

No. 14-11284

United States Court of Appeals
Fifth Circuit

FILED

July 2, 2015

Lyle W. Cayce
Clerk

RAUL G. DELEON, JR.,

Plaintiff-Appellant

v.

DR. MING T. HO, Ophthalmologist on Contract with the T.D.C.J.; GEORGE ALLEN, Medical Administrator, Montford Unit; TEXAS TECH UNIVERSITY HEALTH SCIENCE CENTER,

Defendants-Appellees

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:14-CV-73

Before DENNIS, SOUTHWICK, and HAYNES, Circuit Judges.

PER CURIAM:*

Raul G. DeLeon, Jr., Texas prisoner # 1635186, seeks leave to proceed in forma pauperis (IFP) from the district court's dismissal of his 42 U.S.C. § 1983 lawsuit, pursuant to 28 U.S.C. § 1915A. By moving to proceed IFP, DeLeon is challenging the district court's certification that the appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997); FED. R. APP.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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P. 24(a)(5). Our inquiry into an appellant's good faith "is limited to whether the appeal involves legal points arguable on their merits (and therefore not frivolous)." *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted). We may dismiss the appeal if it is frivolous. *See Baugh*, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2.

In his motion and brief, DeLeon asserts that he is entitled to proceed IFP because he is a pauper and is disabled. He briefs no argument acknowledging or addressing the basis for the dismissal of any of the claims alleged in his complaint. Even pro se litigants must brief arguments in order to preserve them. *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993). By failing to address the district court's reasons for dismissing his claims, DeLeon has abandoned the dispositive issues on appeal. *See id.*; *see also Brinkmann v. Dallas Cnty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

DeLeon has thus failed to show that his appeal involves any arguably meritorious issue. *See Howard*, 707 F.2d at 220. Accordingly, his IFP motion is denied. The instant appeal is frivolous and is therefore dismissed. *See id.*; *Baugh*, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2.

Both this court's dismissal of the instant appeal as frivolous and the district court's dismissal of the complaint for failure to state a claim count as strikes for purposes of the three-strikes bar of 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). We caution DeLeon that if he accumulates three strikes, he will not be able to 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 DENIED; APPEAL DISMISSED; SANCTION WARNING ISSUED.