

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

October 10, 2008

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No. 08-40355  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

REGINALD DONELL RICE,

Plaintiff-Appellant,

v.

GREG BREWER, Judge, 366th Judicial District Court,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
No. 4:08-CV-36

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Before SMITH, STEWART, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Reginald Rice applies for leave to proceed in forma pauperis ("IFP") in this

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appeal from the dismissal of his civil rights complaint. "Under 28 U.S.C. § 1915(a), a federal court may refuse to certify an appeal for in forma pauperis status if it is not taken in good faith." *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). Rice's IFP motion is construed as a challenge to the refusal to certify. See *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). The inquiry into whether the appeal is taken in good faith "is limited to whether the appeal involves legal points arguable on their merits (and therefore not frivolous)." *Id.* at 220 (quotation marks omitted).

Rice has not shown that the district court erred in determining that the only named defendant is absolutely immune from suit. The motion for leave to proceed IFP on appeal is denied. Rice's motion for injunctive relief is denied. The appeal is without arguable merit and is dismissed as frivolous. See 5TH CIR. R. 42.2; *Howard*, 707 F.2d at 219-20 (5th Cir. 1983).

All motions are DENIED. The appeal is DISMISSED.