

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

December 11, 2007

No. 07-50688
Conference Calendar

Charles R. Fulbruge III
Clerk

FRANK HERRERA

Plaintiff-Appellant

v.

GREG ABBOTT, Texas State Attorney General; TEXAS STATE BOARD OF
PLUMBING EXAMINERS; CITY OF SAN ANTONIO, Redevelopment Services;
FLORENCIO MORENO; NORMA MORENO; HILARIO TORRES; TERESA
TORRES

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:07-CV-257

Before REAVLEY, BARKSDALE, and GARZA, Circuit Judges.

PER CURIAM:*

Frank Herrera moves this court for leave to proceed in forma pauperis (IFP) on appeal from the underlying denial of his IFP motion based on the determination that his proposed 42 U.S.C. § 1983 complaint was time-barred and substantively without merit. By so moving, Herrera challenges the district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court's certification that his appeal is not taken in good faith. See *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

Herrera's appellate IFP motion is restricted to the argument that he is entitled to proceed IFP because he is a pauper. He has waived any argument challenging the district court's certification that his appeal is not taken in good faith, as well as any challenge to the reasons for the district court's underlying denial of his initial IFP motion filed jointly with his proposed § 1983 complaint, by failing to brief them. See *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993). He has thus abandoned the only grounds for appeal. *Id.* The appeal is wholly without arguable merit and is therefore dismissed as frivolous. See *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2; see also *Baugh*, 117 F.3d at 202 n.24. Herrera's IFP motion is denied, as is his motion for the appointment of counsel. The motion for the temporary reinstatement of his Texas master plumber's license is similarly denied.

MOTIONS DENIED; APPEAL DISMISSED.