

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

United States Court of Appeals
Fifth Circuit

FILED

February 28, 2012

Lyle W. Cayce
Clerk

No. 11-20529
Summary Calendar

ELISHA GENARO DAVIS,

Plaintiff-Appellant

v.

JOHNNY B. HOLMES, District Attorney of Harris County, Texas,

Defendant-Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:11-CV-2362

Before BENAVIDES, STEWART, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Elisha Genaro Davis, Texas prisoner # 1571246, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint for failing to state a claim. Davis's complaint was based on his 2009 guilty plea conviction for possession with intent to deliver cocaine. Davis alleged that his Fourth Amendment rights were violated by the consideration of certain prior convictions for enhancement purposes.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 11-20529

On appeal, Davis fails to adequately challenge the basis of the district court's decision as to the dismissal of his claims. He asserts only conclusory statements. Although this court liberally construes pro se briefs, this court requires arguments to be briefed in order to be preserved. *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993). Because Davis has failed to identify an error in the district court's dismissal of his claims, Davis has waived these issues on appeal, and this court need not address them. *See Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Because the appeal is without arguable merit and is frivolous, *see Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983), it is DISMISSED. *See* 5TH CIR. R. 42.2. This dismissal counts as a strike under 28 U.S.C. § 1915(g), as does the district court's dismissal. *See Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). We caution Davis that if he accumulates three strikes, he will not be permitted to proceed IFP in any civil action or appeal filed while incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. *See* § 1915(g).