

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

No. 13-31282

United States Court of Appeals
Fifth Circuit

FILED

July 1, 2014

Lyle W. Cayce
Clerk

FREDRICK GREER,

Plaintiff-Appellant

v.

BURL CAIN, WARDEN, LOUISIANA STATE PENITENTIARY;
CASSANDRA TEMPLE, Lieutenant Colonel,

Defendants-Appellees

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:13-CV-29

Before KING, DAVIS, and ELROD, Circuit Judges.

PER CURIAM:*

Fredrick Greer, Louisiana prisoner # 525214, moves this court for authorization to proceed in forma pauperis (IFP) in an appeal of the district court's judgment granting the defendants' motion to dismiss his 42 U.S.C. § 1983 complaint for failure to state a claim upon which relief may be granted. Greer filed the complaint arguing that the defendants violated his due process rights by confiscating \$1900 from his inmate account.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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In denying leave to appeal IFP, a district court may “incorporate by reference its decision dismissing the prisoner’s complaint on the merits with or without supplementation,” which is the procedure used in this case. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). By moving to proceed IFP, Greer is challenging the district court’s certification that his appeal is not taken in good faith. *See id.* at 202. Our 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).” *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted). By failing to address the district court’s reasons for dismissing his § 1983 complaint or providing any other reason why the district court’s certification is erroneous, Greer has abandoned any challenge he might have raised regarding the district court’s decision. *See Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir. 1993); *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Greer’s appeal is without arguable merit and is thus frivolous. *See Howard*, 707 F.2d at 219-20. His IFP motion is therefore denied, and his appeal is dismissed as frivolous. *See Baugh*, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2. The district court’s dismissal of Greer’s case for failure to state a claim upon which relief may be granted and the dismissal of this appeal as frivolous count as strikes for purposes of 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). Greer is cautioned 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.