

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

No. 14-20071

United States Court of Appeals
Fifth Circuit

FILED

September 18, 2014

Lyle W. Cayce
Clerk

JOSEPH CHHIM,

Plaintiff-Appellant

v.

UNIVERSITY OF HOUSTON,

Defendant-Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:13-CV-2483

Before PRADO, OWEN, and GRAVES, Circuit Judges.

PER CURIAM:*

Joseph Chhim sought relief under Title VII of the Civil Rights Act of 1964 for retaliation and discrimination on the basis of race, color, and national origin. The district court dismissed the suit, denied Chhim's motion for reconsideration, and denied him leave to proceed in forma pauperis (IFP) on appeal, certifying that any appeal would be frivolous. Chhim now moves in this court for the appointment of counsel and for leave to proceed IFP.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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By moving to proceed IFP, Chhim challenges the district court's certification that his appeal is not taken in good faith. *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). An appeal is taken in good faith if it raises legal points that are arguable on the merits and thus nonfrivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

Because Chhim's motion for reconsideration was filed more than 28 days after the entry of final judgment, it did not restart the time limit for filing a timely notice of appeal from the dismissal of his suit. *See* FED. R. APP. P. 4(a)(4)(A)(vi). His notice of appeal was therefore timely only as to the denial of the motion for reconsideration, and his appeal from the denial of his motion for reconsideration does not bring up the underlying judgment for review. *See Bailey v. Cain*, 609 F.3d 763, 767 (5th Cir. 2010). Chhim, however, presents no argument that the district court erred in denying his motion for reconsideration. He has therefore abandoned any arguments regarding that ruling. *See Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Thus, Chhim has not established that he will raise a nonfrivolous appellate issue in connection with the denial of the motion. *See Howard*, 707 F.2d at 220. Accordingly, we deny his motion to proceed IFP on appeal and dismiss his appeal as frivolous. *See Baugh*, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2. Chhim's motion for the appointment of counsel is likewise denied. *See Cooper v. Sheriff, Lubbock Cnty., Texas*, 929 F.2d 1078, 1084 (5th Cir. 1991).

MOTIONS DENIED; APPEAL DISMISSED.