

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

No. 14-50544

United States Court of Appeals
Fifth Circuit

FILED

DONALD KEITH DENNIS,

February 3, 2015

Plaintiff-Appellant

Lyle W. Cayce
Clerk

v.

ASSISTANT WARDEN BRIAN BLANCHARD, In His Individual and Official Capacity; CAPTAIN JOHN MORGAN, In His Individual and Official Capacity; SERGEANT LINDA SCHARTS, In Her Individual and Official Capacity; WILLIAM MCCLURE, In His Individual and Official Capacity; JACQUELINE KELLERMAN, In Her Individual and Official Capacity; LEMIRE EVENS, In His Individual and Official Capacity,

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:14-CV-52

Before PRADO, OWEN, and GRAVES, Circuit Judges.

PER CURIAM:*

Donald Keith Dennis, Texas prisoner # 1093314, moves for leave to proceed in forma pauperis (IFP) in his appeal of the district court's dismissal of his pro se 42 U.S.C. § 1983 complaint as frivolous and for failure to state a

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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claim upon which relief may be granted. His IFP motion is construed as a challenge to the district court's certification determination that his appeal was not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

Dennis does not address the district court's reasons for its certification decision but simply states, without further explanation, that the district court "overlook[ed] [the] relief that was stated" in his complaint and had "no good reason" for denying his IFP motion. By failing to address the reasons given by the district court in support of its certification decision, Dennis has abandoned any challenge to that decision, *see Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993), and has failed to show that his appeal "involves legal points arguable on their merits," *see Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted).

Accordingly, because Dennis has failed to show that the appeal has arguable merit, his motion for leave to proceed IFP is DENIED, and the 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 Dennis's § 1983 complaint as frivolous and this court's dismissal of his appeal as frivolous both 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). Dennis is CAUTIONED that if he accumulates three strikes, he will not be able to proceed IFP in any civil action or appeal while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. *See* § 1915(g).