

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

\_\_\_\_\_  
No. 14-51073  
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United States Court of Appeals  
Fifth Circuit

**FILED**

September 4, 2015

Lyle W. Cayce  
Clerk

BILLY MINH TRAN,

Plaintiff-Appellant

v.

JAMES QUINTANILLA; JIM ACUNA,

Defendants-Appellees

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:13-CV-842  
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Before HIGGINBOTHAM, SMITH, and OWEN, Circuit Judges.

PER CURIAM:\*

Billy Minh Tran, Texas prisoner # 894698, has filed a motion for leave to proceed in forma pauperis (IFP) on appeal from the grant of summary judgment for the defendants on certain claims in his 42 U.S.C. § 1983 action and a jury verdict for the defendants on Tran's excessive force claim. The district court denied Tran's IFP motion and certified that the appeal was not taken in good faith. By moving for leave to proceed IFP, Tran is challenging

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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the district court's certification decision. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997); 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a).

Tran's conclusional statements and list of alleged errors are not supported by any actual argument, citations to authorities, or references to the record. The claims are therefore considered abandoned. *See United States v. Ballard*, 779 F.2d 287, 295 (5th Cir. 1986). Accordingly, Tran has failed to show that his 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). Therefore, the IFP motion is denied and the appeal is dismissed as frivolous. *See Baugh*, 117 F.3d at 202 & n.2; 5TH CIR. R. 42.2.

The dismissal of this appeal as frivolous counts as a strike for purposes of § 1915(g). *See Coleman v. Tollefson*, 135 S. Ct. 1759, 1763 (2015). Tran is cautioned that if he accumulates three strikes under § 1915(g), 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).

IFP DENIED; APPEAL DISMISSED; SANCTION WARNING ISSUED.