

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

No. 16-11578
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
November 16, 2017

Lyle W. Cayce
Clerk

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff-Appellee

v.

PAUL DOWNEY; JEFFRY P. DOWNEY,

Defendants-Appellants

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:14-CV-185

Before PRADO, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:*

The Securities and Exchange Commission (SEC) filed a complaint against Paul R. Downey and Jeffry P. Downey alleging that they violated the antifraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934. The Downeys appeal the district court's grant of summary judgment in favor of the SEC on the fraud allegations, arguing that the district court erred by denying their motion for extension of time to respond to the

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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SEC's motion and generally arguing that the court erred by granting the summary judgment motion. They move this court for leave to proceed in forma pauperis (IFP).

The district court denied the motion for extension of time finding that the certificate of conference contained in the motion failed to comply with a local civil rule because it failed to explain why it was not possible to confer with opposing counsel regarding whether he would oppose the Downeys' motion. *See* N.D. TEX. CIV. R. 7.1(b)(3). The Downeys have offered no reason, much less an impelling one, for finding that the district court abused its discretion in applying the local rules to their case. *See Victor F. v. Pasadena Indep. Sch. Dist.*, 793 F.2d 633, 635 (5th Cir. 1986). They have not shown that the denial of the motion for extension of time for failure to comply with the local rules was an inappropriate exercise of the district court's discretion. *See id.* at 636. In addition, the Downeys have failed to adequately brief their argument that the district court erred by granting the SEC's summary judgment motion; as such, they have abandoned the claim on appeal. *See Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Because the instant appeal is without merit and is therefore frivolous, IT IS ORDERED that the Downeys' motion for leave to proceed IFP on appeal is DENIED, and their appeal is DISMISSED as frivolous. *See* 5TH CIR. R. 42.2.