

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

No. 16-20722
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 3, 2017

Lyle W. Cayce
Clerk

CHARLES R. ANDRUS,

Petitioner–Appellant,

versus

LORIE DAVIS, Director, Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent–Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:15-CV-968

Before JOLLY, SMITH, and HAYNES, Circuit Judges.

PER CURIAM:*

Charles Andrus, Texas prisoner # 1249907, moves to proceed *in forma*

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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pauperis (“IFP”) to appeal the dismissal, for lack of jurisdiction, of a motion seeking authorization, in a 28 U.S.C. § 2255 proceeding, to withdraw his state pleas of *nolo contendere* to aggravated robbery and burglary of a habitation. Andrus has moved for leave to file a supplemental brief.

By moving for IFP status in this court, Andrus is challenging the district court’s certification that an appeal would not be taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). This court’s “inquiry 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) (citation omitted).

Andrus has failed to identify any errors in the district court’s analysis. *See Brinkmann v. Dallas Cty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987) (stating that plaintiff’s failure to identify any error was “the same as if he had not appealed that judgment”). Although this court liberally construes *pro se* filings, even *pro se* litigants must brief arguments to preserve them. *See Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir. 1993).

Andrus has therefore failed to show that his appeal involves “legal points arguable on their merits (and therefore not frivolous).” *See Howard*, 707 F.2d at 220 (internal quotation marks and citation omitted). The motion to proceed IFP is DENIED. The motion to file a supplemental brief is GRANTED.

Andrus’s appeal is without arguable merit and is frivolous. *See id.* at 219–20. Because the appeal is frivolous, it is DISMISSED. *See* 5TH CIR. R. 42.2.