

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

No. 16-50456
Summary Calendar

United States Court of Appeals
Fif h Circuit

FILED

June 5, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

DEXTER DARNELL HEWITT, Also Known as Dexter Curnell Hewitt,

Defendant–Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:07-CR-149-1

Before JONES, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

Dexter Hewitt, federal prisoner # 83401-180, seeks 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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”) on appeal of the denial of his self-styled motion “to recall [the] mandate pursuant to Rule 32(i)(3)(B)” of the Federal Rules of Criminal Procedure. By moving to proceed IFP, Hewitt is challenging the district court’s certification that his appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997); FED. R. APP. P. 24(a)(5).

According to Hewitt, the district court violated Rule 32 and denied him due process by failing to rule on his request for a downward variance at sentencing. He also contends that the court erred in determining that he was a career offender under the Sentencing Guidelines. Hewitt does not address the district court’s determination that it lacked authority to grant relief on his motion. Because he does not contest the district court’s reasons for denying the motion and certifying that the appeal was not taken in good faith, he has abandoned any challenge to the certification decision and has failed to show that the appeal raises a nonfrivolous issue. *See Brinkmann v. Dallas Cty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987); *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

The 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.