

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

No. 18-30531

United States Court of Appeals
Fifth Circuit

FILED

December 5, 2018

Lyle W. Cayce
Clerk

DEON TREMELL LEE,

Plaintiff-Appellant

v.

UNITED STATES OF AMERICA; UNITED STATES SUPREME COURT;
UNITED STATES CONGRESS; STATE OF LOUISIANA,

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:18-CV-182

Before JONES, ELROD, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Deon Tremell Lee, Louisiana prisoner # 375231, moves for leave to proceed in forma pauperis (IFP) in this appeal of the sua sponte dismissal of his case. The motion is a challenge to the district court's certification that the appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Lee fails to address the district court's reasons for finding his case to be frivolous. Pro se briefs are afforded liberal construction. *See Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir. 1993). Nevertheless, when an appellant fails to identify any error in the district court's analysis, it is the same as if the appellant had not appealed the decision. *Brinkmann v. Dallas Cty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Because Lee has failed to challenge any factual or legal aspect of the district court's disposition of his claims or the certification that his appeal is not taken in good faith, he has abandoned the critical issue of his appeal. *See id.* Thus, the appeal lacks arguable merit. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Accordingly, 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.

The dismissal of the complaint by the district court and the dismissal of this appeal as frivolous constitute two strikes under 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996), *abrogated in part on other grounds by Coleman v. Tollefson*, 135 S. Ct. 1759, 1762-63 (2015). Lee is WARNED that accumulating a third strike will preclude him from proceeding 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).

IFP MOTION DENIED; APPEAL DISMISSED AS FRIVOLOUS;
SANCTION WARNING ISSUED