

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

United States Court of Appeals  
Fifth Circuit

**FILED**

March 25, 2020

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 19-50588

Summary Calendar  
\_\_\_\_\_

FREDERICK OMOYUMA SILVER,

Plaintiff-Appellant,

v.

CITY OF SAN ANTONIO; SAN ANTONIO POLICE DEPARTMENT; TEXAS DEPARTMENT OF TRANSPORTATION; OFFICER RICARDO PEREZ; CHRISTOPHER ORTIZ; E. G. SAN MIGUEL; ALANIS WRECKER SERVICE; ALEJANDRO ALANIS; UR VMS VEHICLE STORAGE FACILITY; MISSION WRECKER SERVICE SA, INCORPORATED; MUHAMMAD AMIN CHOUDARY; OFFICERS JOHN DOE 1-5; JOHN W. BULL; JUDGE LINDA H. CONLEY; JUDGE CLARISSA CHAVARRIA; JUDGE LISA M. GONZALES; DANIEL GUERRERO; JUDGE DAN KASSAHN; JUDGE CHRISTINE D. LACY; JUDGE CARLA OBLEDO; JUDGE MARGARITA S. POL; JUDGE PETER A. ZAMORA; STATE OF TEXAS,

Defendants-Appellees.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:19-CV-349  
\_\_\_\_\_

Before JONES, HIGGINSON, and OLDHAM, Circuit Judges.

PER CURIAM:\*

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Frederick Omoyuma Silver moves for leave to proceed in forma pauperis (IFP) in this appeal from the district court's denial of his motion to remand and for sanctions against the defendants. Silver contends that the district court erred in not granting his motion to remand because there was no sufficient ground for removal. He argues that the district court should have granted his motion for sanctions against the defendants for erroneously removing the case to federal court.

In addition, he argues for the first time on appeal that removal was improper because not all of the defendants consented to and adopted the motion. We do not consider this claim because it is not properly before this court. *See Hannah v. United States*, 523 F.3d 597, 600 n.1 (5th Cir. 2008); *Williams v. Ballard*, 466 F.3d 330, 335 (5th Cir. 2006).

By moving to proceed IFP, Silver is challenging the district court's certification that this appeal was not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). Our inquiry into an appellant's good faith "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) (internal quotation marks and citations omitted).

Silver's complaint alleged violations of his rights under the U.S. Constitution and sought damages under 42 U.S.C. § 1983 and § 1985. These implicate federal question jurisdiction. *See* 28 U.S.C. § 1331. The district court therefore did not err in denying Silver's motion to remand the case to state court. *See Bell v. Hood*, 327 U.S. 678, 682–83 (1946); *Maroney v. Univ. Interscholastic League*, 764 F.2d 403, 405–06 (5th Cir. 1985). Silver's contrary position is frivolous. *See Howard*, 707 F.2d at 219–20.

Accordingly, Silver's motion for leave to proceed IFP on appeal is DENIED, and the appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2. Silver is WARNED that future frivolous,

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repetitive, or otherwise abusive filings will invite the imposition of sanctions, which may include dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction.