

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10526
Conference Calendar

ARZIE WAYNE DUNCAN,

Plaintiff-Appellant,

versus

A. BEAMER, Captain; T. WHITAKER,
Captain; BAKER, Lt.; R. TUCKER, Lt.;
LOA, Officer; BART, Officer,

Defendants-Appellees.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:96-CV-101
- - - - -

December 11, 1996

Before WIENER, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Arzie Wayne Duncan, Texas prisoner #568368, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint. Duncan does not address the basis for the district court's dismissal of his case, namely Duncan's ineligibility for in forma pauperis status and his failure to pay the \$120 filing fee. Although pro se briefs are accorded liberal construction,

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

"arguments must be briefed to be preserved." Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993) (internal quotation and citation omitted). Duncan's failure to address the merits of the district court's order of dismissal constitutes an abandonment of the issue raised therein on appeal. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987) (failure to identify any error in the district court's analysis or application to the facts of the case is the same as if the appellant had not appealed that judgment). Duncan's appeal is dismissed as frivolous. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983); see 5th Cir. R. 42.2.

We caution Duncan that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Duncan is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

Duncan's motion to amend is DENIED.

APPEAL DISMISSED; SANCTION WARNING ISSUED; MOTION DENIED.