

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

United States Court of Appeals
Fifth Circuit

FILED

July 17, 2012

Lyle W. Cayce
Clerk

No. 11-30967
Summary Calendar

DANNIE R. HAYWARD, SR.,

Plaintiff-Appellant,

versus

JOLYNN WILLIAMS, Nurse; CARLA HAWKINS; PAM PORTER;
REKIESHA SCOTT; CATHY ROULE; GARY WILSON,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Louisiana
No. 3:07-CV-72

Before DAVIS, SMITH, and PRADO, Circuit Judges.

PER CURIAM:*

Dannie Hayward, Sr., former Louisiana prisoner # 301013, moves this

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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court for leave to proceed *in forma pauperis* (“IFP”) in his appeal of the dismissal of his 42 U.S.C. § 1983 civil rights lawsuit. By moving for IFP status, Hayward 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).

Hayward argues that it would be a hardship to pay the costs of his appeal and that justice requires that the appeal be heard. He does not address the district court’s certification that his appeal is not taken in good faith or any of the court’s reasons for its decision. *See Baugh*, 117 F.3d at 202. Accordingly, his challenge is deemed abandoned. *See Brinkmann v. Dall. Cnty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Additionally, Hayward has not shown that his appeal involves “legal points arguable on their merits (and therefore not frivolous).” *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (per curiam). The motion 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.

Because Hayward was incarcerated at the time he filed his notice of appeal, this dismissal counts as a strike under 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). Hayward is cautioned that if he accumulates three strikes under § 1915(g), he will not be able to proceed IFP in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. *See* § 1915(g).