

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

No. 18-10125

United States Court of Appeals
Fifth Circuit

FILED

January 2, 2019

Lyle W. Cayce
Clerk

JUNNE KOH,

Plaintiff-Appellant

v.

THOMAS KANE, Director; MS. UNKNOWN GUERRERO, Grievance
Investigator,

Defendants-Appellees

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:17-CV-206

Before JONES, ELROD, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Junne Koh, federal prisoner # 44827-086, moves this court for leave to proceed in forma pauperis (IFP) in his appeal of the dismissal as frivolous of his action under *Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). By moving for IFP status here, Koh 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).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Koh's appellate brief does not address the district court's certification that Koh's appeal was not taken in good faith or the reasons for the certification decision. *See Baugh*, 117 F.3d at 202. Accordingly, his challenge to the certification decision is deemed abandoned. *See Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Additionally, Koh 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). Therefore, Koh's motion for leave to proceed IFP on appeal is DENIED, and his appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2.

Both the district court's dismissal of the instant suit as frivolous and this court's dismissal of this appeal as frivolous each count as a strike pursuant to 28 U.S.C. § 1915(g)'s three-strikes provision. *See Adepegba v. Hammons*, 103 F.3d 383, 385-87 (5th Cir. 1996). Additionally, while the instant appeal was pending, Koh accumulated other § 1915(g) strikes. *Koh v. Fox*, 5:18-cv-289 (W.D. Okla. July 31, 2018); *Koh v. Kane*, 5:17-cv-39 (S.D. Miss. Apr. 23, 2018); *Koh v. Faust*, 5:17-cv-27, (S.D. Miss. Apr. 9, 2018). Accordingly, Koh is now barred under § 1915(g) from proceeding 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).

Koh is warned that any future frivolous, 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. He should review any pending appeals and actions and move to dismiss any that are frivolous or repetitive.

APPEAL DISMISSED; IFP MOTION DENIED; § 1915(g) BAR IMPOSED; WARNED.