

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

United States Court of Appeals
Fifth Circuit

FILED

March 17, 2010

No. 09-10385
Summary Calendar

Charles R. Fulbruge III
Clerk

PETER OKECHUKWU AJAEGBU,

Plaintiff-Appellant

v.

DIANA BAILEY,

Defendant-Appellee

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:09-CV-50

Before BENAVIDES, PRADO and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Peter Okechukwu Ajaegbu, federal prisoner # 24189-077, moves this court for leave to proceed in forma pauperis (IFP) in his appeal from the district court's denial of his civil complaint under the National Labor Relations Act (NLRA) against an employee of the Federal Prison Industries (FPI). The district court dismissed Ajaegbu's suit for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), finding that only employers may be sued under the NLRA and that the FPI did not qualify as an employer under the NLRA.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

In his brief, Ajaegbu argues that his constitutional rights have been violated, but he fails to brief any argument regarding the district court's certification decision or, in particular, its dismissal of his lawsuit for failure to state a claim upon which relief can be granted. Although we liberally construe pro se briefs, *see Haines v. Kerner*, 404 U.S. 519, 520 (1972), even pro se litigants must brief arguments in order to preserve them. *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993). By failing to discuss the district court's rationale for dismissing his complaint, Ajaegbu has abandoned the issue, and it is the same as if he had not appealed the judgment. *See Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Because Ajaegbu has failed to demonstrate that he will raise a nonfrivolous issue on appeal, his motion to proceed IFP is denied. *See* FED. R. APP. P. 24(a); *Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982). This appeal is without merit and is dismissed as frivolous. *See Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.