

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

No. 13-31169

United States Court of Appeals
Fifth Circuit

FILED

September 15, 2014

Lyle W. Cayce
Clerk

RONALD WASHINGTON,

Plaintiff–Appellant,

versus

BURL CAIN; TROY PORET; SUSAN FAIRCHILD; E. FEZEL; K. DAVIS,

Defendants–Appellees.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:12-CV-505

Before SMITH, ELROD, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Ronald Washington, Louisiana prisoner # 106426, seeks authorization to proceed *in forma pauperis* (“IFP”) in his appeal of the dismissal, as frivolous,

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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of his 42 U.S.C. § 1983 action. By his IFP motion, Washington challenges the denial of IFP status and the certification that his appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

The district court denied Washington's IFP motion for the reasons stated in the magistrate judge's report and in the order of dismissal. Washington fails to provide either argument or authorities to show that the court erred in determining that his complaint failed to state a claim and was frivolous; he merely offers a conclusional assertion that he is entitled to redress. He does not challenge the court's reasons for denying § 1983 relief and for its certification decision, and he does not address the question whether his claims "involve[] legal points arguable on their merits." *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citations omitted).

Washington has thus abandoned any challenge to the dismissal and the certification that his appeal is not taken in good faith. *See Yohey v. Collins*, 985 F.2d 222, 224–25 (5th Cir. 1993); FED. R. APP. P. 28(a)(8). Because he has not shown that the appeal has merit, we may dismiss it as frivolous *sua sponte*. *See Howard*, 707 F.2d at 220; 5TH CIR. R. 42.2.

The dismissal of Washington's complaint by the district court and the dismissal of this appeal as frivolous count as two strikes under 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387–88 (5th Cir. 1996). Washington is cautioned that if he accumulates three strikes he will not be able to proceed IFP in any civil action or appeal while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. *See* § 1915(g).

The motion to proceed IFP is DENIED, and the appeal is DISMISSED as frivolous.