

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

United States Court of Appeals
Fifth Circuit

FILED

December 22, 2016

Lyle W. Cayce
Clerk

STEPHEN E. ROUSE,

Plaintiff-Appellant

v.

OFFICER CODY MILLER; OFFICER ANDREW HEIMSATH; OFFICER
ORLANDO RAMOS,

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:15-CV-721

Before JOLLY, DAVIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Stephen E. Rouse moves for leave to proceed in forma pauperis (IFP) to appeal the district court's dismissal of his civil rights complaint. By moving for leave to proceed IFP in this court, Rouse is challenging the district court's certification that his appeal will not be taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). This court must determine whether

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Rouse has raised any “legal points arguable on their merits.” *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted).

In his complaint, Rouse alleged that Officer Cody Miller and Officer Andrew Heimsath had used pepper-spray and excessive force against him. He also alleged that Officer Orlando Ramos was liable for falsely imprisoning him at the jail and for the denial of medical care, sleep, and edible food. Despite being given at least two opportunities to amend, the district court ultimately concluded that Rouse had provided only conclusory allegations in support of his claims and dismissed his complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).

A valid complaint must contain sufficient facts to state a facially plausible claim for relief. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). After reviewing Rouse’s IFP motion, the briefs of the parties, and the record before us, we conclude that Rouse has not demonstrated that he will raise a nonfrivolous issue on appeal, *see Howard*, 707 F.2d at 220, and his motion to proceed IFP is DENIED. Because his appeal is without arguable merit, it is DISMISSED. *See Baugh*, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2.