

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

No. 16-51295
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
October 24, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ARNOLD REYNA ALANIZ,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:90-CR-31-2

Before HIGGINBOTHAM, JONES, and COSTA, Circuit Judges.

PER CURIAM:*

Arnold Reyna Alaniz, federal prisoner # 53351-080, was convicted of possession of heroin with intent to distribute, conspiracy to distribute heroin, and using a firearm during a drug trafficking crime, and was sentenced to a total of 138 months of imprisonment and a five-year term of supervised release. He now moves for leave to proceed in forma pauperis (IFP) from the denial of his second motion seeking a sentence reduction pursuant to 18 U.S.C.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 16-51295

§ 3582(c)(2) based on Amendment 782 to the Sentencing Guidelines. The district court found that a sentence reduction was not warranted and certified that Reyna Alaniz's appeal was not taken in good faith.

By moving to proceed IFP, Reyna Alaniz challenges the district court's certification that his appeal was not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). Our inquiry into a litigant's good faith "is limited to whether the appeal involves legal points arguable on their merits (and therefore not frivolous)." *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citations omitted).

When denying IFP and certifying that the appeal was not taken in good faith, the district court noted that Reyna Alaniz failed to make any argument that he was entitled to relief. In his IFP motion, Reyna Alaniz fails to directly challenge this conclusion. Although pro se briefs are liberally construed, *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).

Regardless, Reyna Alaniz's appeal does not involve any "legal points arguable on their merits." *Howard*, 707 F.2d at 220 (internal quotation marks and citations omitted). The district court gave due consideration to the arguments Reyna Alaniz presented in favor of his original motion, and concluded that a reduction was not warranted in light of the § 3553 factors and the particular circumstances of the case. *See United States v. Whitebird*, 55 F.3d 1007, 1010 (5th Cir. 1995). Reyna Alaniz's most recent motion was denied for the same reasons.

Accordingly, Reyna Alaniz's motion to proceed IFP is DENIED, and the appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2.