

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

No. 17-60412

United States Court of Appeals
Fifth Circuit

FILED

December 7, 2017

Lyle W. Cayce
Clerk

RICKY RONNELL EWING,

Plaintiff-Appellant

v.

MIKEL PEABODY, Corrections Officer at SMCI; ZENIA HOLICOMB,
Lieutenant at SMCI; SHETICA LOCKHART, Lieutenant at SMCI,

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:16-CV-52

Before DENNIS, SOUTHWICK, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Ricky Ronnell Ewing, Mississippi prisoner # 34353, moves for leave to proceed in forma pauperis (IFP) on appeal from the dismissal of his 42 U.S.C. § 1983 complaint. The district court denied Ewing leave to proceed IFP on appeal, certifying that the appeal was not taken in good faith because Ewing had not sought review of any issue that was arguable on its merits.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Ewing pleads his indigency and complains of prison officials' mistreatment of him, but he does not address the legal basis for the district court's dismissal of his complaint, namely, his failure to exhaust administrative remedies. Because Ewing has failed to challenge the legal basis for the district court's dismissal of his § 1983 complaint and the certification that his appeal is not taken in good faith, he has abandoned the critical issues of his appeal. *See Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Thus, the appeal lacks arguable merit and is therefore frivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Ewing's motion for leave to proceed IFP on appeal is DENIED, and his appeal is DISMISSED as frivolous. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.24 (5th Cir. 1997); 5TH CIR. R. 42.2.

The dismissal of this appeal as frivolous counts as a strike under 28 U.S.C. § 1915(g). *See* § 1915(g); *Coleman v. Tollefson*, 135 S. Ct. 1759, 1763-64 (2015). Ewing has at least two other strikes. *Ewing v. Richie, et al.*, No. 17-60176 (5th Cir. Nov. 15, 2017); *Ewing v. Jone, et al.*, No. 1:15-CV-254 (S.D. Miss. Feb. 1, 2016). As Ewing has accumulated at least three strikes under § 1915(g), he may not proceed IFP in any civil action or appeal filed in a court of the United States while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. *See* § 1915(g). Ewing is further warned that any future frivolous or repetitive filings in this court or any court subject to this court's jurisdiction will subject him to additional sanctions.

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