

United States Court of Appeals for the Fifth Circuit

No. 23-60367
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 14, 2023

Lyle W. Cayce
Clerk

AKECHETA A. MORNINGSTAR,

Plaintiff—Appellant,

versus

AMAZON.COM; AMAZON.COM, *doing business as* CREATESPACE,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:23-CV-285

Before JONES, HIGGINSON, and HO, *Circuit Judges.*

PER CURIAM:*

Akecheta A. Morningstar, proceeding *pro se*, moves for leave to proceed in forma pauperis (IFP) on appeal from the district court's grant of the motion to compel arbitration and to dismiss his private civil action. Morningstar's IFP motion challenges the district court's determination that the appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 23-60367

(5th Cir. 1997). Our inquiry into whether the appeal is taken in 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) (citation omitted).

Although Morningstar makes conclusory assertions that the district court erred by denying his motion to recuse, he does not substantively brief, and has therefore abandoned, the issue. *See* FED. R. APP. P. 28(a)(8)(A); *Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir. 1993). Nor does Morningstar substantively address the district court’s basis for compelling arbitration and dismissing his suit, to wit: his failure to assert, much less show, that he was fraudulently induced into agreeing to the arbitration provisions at issue. *See Downer v. Siegel*, 489 F.3d 623, 627-28 (5th Cir. 2007) (“Even if [the] contract had been induced by fraud, the arbitration clause is enforceable unless the plaintiffs were fraudulently induced into agreeing to the arbitration clause itself.”); *Brinkmann v. Dallas Cnty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987) (holding that failure to identify any error in the district court’s analysis is the same as if appellant had not appealed).

As he has not shown that his appeal involves a nonfrivolous issue, Morningstar’s motion to proceed IFP is DENIED, and his appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2. The motions to recuse certain judges of this court and to partially void the district court’s dismissal order are likewise DENIED.