

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Margaret Elizabeth Broderick-Home v. United States of America

544 F. App'x 479 (5th Cir. 2013) · No. 13-10169 · Decided October 31, 2013

SUMMARY

The Fifth Circuit affirmed the district court's denial of Marshall Home's motions seeking to reopen a civil proceeding brought by Margaret Elizabeth Broderick-Home and substitute Home as plaintiff after Broderick-Home's death. The court held that Home abandoned any challenge to the denial of his motions by failing to brief the issue on appeal.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Benavides, Circuit Judge; Clement, Circuit Judge; Owen, Circuit Judge
JURISDICTION	Federal
DECIDED	October 31, 2013
DOCKET	13-10169
DISPOSITION	affirmed
PROCEDURAL POSTURE	Marshall Home appealed the district court's denial of his motion to reconsider and supplemental motion to reconsider, which sought to reopen a civil proceeding filed by Margaret Elizabeth Broderick-Home and substitute Home as plaintiff.
PRECEDENTIAL VALUE	unpublished, nonprecedential
PARTIES	Marshall Home v. United States of America, Robert Miskell, Darion Fishman, Ann Birmingham Scheel, United States Attorneys, et al.

TOPICS

[motion for reconsideration](#)

[appellate procedure](#)

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QUESTIONS PRESENTED

1. Whether the district court erred in denying Marshall Home's motion to reconsider and supplemental motion to reconsider.
2. Whether Home preserved any challenge to the reasons for those denials by adequately briefing the issue on appeal.

HOLDINGS

1. A pro se litigant must brief an appellate argument to preserve it, and Home abandoned any challenge to the denial of his motions by failing to brief the only issue presented for appeal.

FACTUAL BACKGROUND

Margaret Elizabeth Broderick-Home had filed the underlying civil proceeding and died while it was pending. No party, successor, or representative of her estate filed a motion for substitution within 90 days of her death. Marshall Home sought to reopen the proceeding and substitute himself as plaintiff, but the district court denied his motions to reconsider.

PROCEDURAL HISTORY

After Margaret Elizabeth Broderick-Home died, the district court dismissed her case without prejudice under Federal Rule of Civil Procedure 25(a)(1) because no party, successor, or estate representative moved for substitution within 90 days of her death. Home then moved to reopen the proceeding and substitute as plaintiff. The district court denied his motion and supplemental motion to reconsider, and the Fifth Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Haines v. Kerner, 404 U.S. 519, 520 (1972)
- Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993)
- Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987)

OPINION

PER CURIAM.

Case: 13-10169 Document: 00512425697 Page: 1 Date Filed: 10/31/2013 IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT United States Court of Appeals Fifth Circuit FILED October 31, 2013 No. 13-10169 Summary Calendar Lyle W. Cayce Clerk MARGARET ELIZABETH BRODERICK-HOME, also known as Margaret Elizabeth Broderick, also known as M. Elizabeth Broderick, Plaintiff MARSHALL HOME, Appellant v. UNITED STATES OF AMERICA; ROBERT MISKELL; DARION FISHMAN; ANN BIRMINGHAM SCHEEL; UNITED STATES ATTORNEYS; ET AL, Defendants-Appellees Appeal from the

United States District Court for the Northern District of Texas USDC No. 4:12-CV-373 Before BENAVIDES, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM: * Marshall Home, federal prisoner # 56200-008, appeals the district court's denial of his motion to reconsider and the denial of his supplemental motion to * 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.

Case: 13-10169 Document: 00512425697 Page: 2 Date Filed: 10/31/2013 No. 13-10169 reconsider. Through these motions, Home sought to have the district court reopen the civil proceeding filed by Margaret Elizabeth Broderick-Home, formerly federal prisoner # 07018-112, and allow Home to substitute as the plaintiff. Following Broderick-Home's death, the district court had dismissed Broderick-Home's case without prejudice pursuant to Federal Rule of Civil Procedure 25(a)(1), as no party or successor or representative of Broderick-Home's estate filed a motion to substitute within 90 days of her death.

Home has failed to brief any challenge to the reasons for the district court's denial of his motion for reconsideration and his supplemental motion. Although pro se briefs are afforded liberal construction, *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). Because Home has failed to brief the only issue for appeal, he has abandoned any arguments regarding the denial of his motions. See *id.*; see also *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Accordingly, the judgment of the district court is AFFIRMED. 2