

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED
July 23, 2009

No. 08-40861
Summary Calendar

Charles R. Fulbruge III
Clerk

AHMED S. SHABAZZ, also known as Clarence M. Hines,

Plaintiff–Appellant,

v.

J. B. SMITH,

Defendant–Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:07-CV-220

Before GARZA, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM:*

Ahmed S. Shabazz appeals the denial of his motion under FED. R. CIV. P. 60(b) seeking relief from the judgment dismissing his 42 U.S.C. § 1983 action. He also moves for the production of a transcript of a hearing at government expense. Shabazz’s notice of appeal was timely only as to his Rule 60 motion and does not enable review of the dismissal of his § 1983 action. *See Edwards v. City of Houston*, 78 F.3d 983, 995 (5th Cir. 1996) (en banc). Shabazz argues the merits of his underlying § 1983 claims but fails to show that denial of the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Rule 60(b) motion was “so unwarranted as to constitute an abuse of discretion.” *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 402 (5th Cir. 1981).

Shabazz’s appeal is devoid of arguable merit and is thus frivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Because it is frivolous, it is DISMISSED. 5TH CIR. R. 42.2. His motion for a transcript at government expense is DENIED. Shabazz is WARNED that filing future repetitive, frivolous, or abusive actions, motions, or appeals will invite the imposition of sanctions, including monetary penalties and limits on his access to federal courts.