

April 20, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-20738  
Conference Calendar

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ALEX MELVIN WADE, JR.,

Petitioner-Appellant,

versus

DOUG DRETKE, DIRECTOR,  
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,  
CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:02-CV-2828  
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Before JONES, SMITH, and PRADO, Circuit Judges.

PER CURIAM:\*

Alex Melvin Wade, Jr., challenged his forgery conviction in a 28 U.S.C. § 2254 petition. He requests a certificate of appealability (COA) to appeal the denial of his FED. R. CIV. P. 60(b) motions, which alleged that Wade did not receive timely notice of the order dismissing his 28 U.S.C. § 2254 petition as untimely. A COA is not required in this appeal. See Dunn v. Cockrell, 302 F.3d 491, 492 (5th Cir. 2002).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Wade contends that the district court's judgment is void pursuant to FED. R. CIV. P. 60(b)(4) because he did not receive timely notice of the entry of judgment. He has not shown error in the district court's denial of relief. See Wilson v. Atwood Group, 725 F.2d 255, 258 (5th Cir. 1984)(en banc); see also FED. R. APP. P. 4(a)(6).

The district court's denial of Wade's FED. R. CIV. P. 60(b) motions is AFFIRMED. Wade's request for a COA is DENIED AS UNNECESSARY.