

FILED

December 8, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-40030

KYLE I. AHART, individually
and as Next Friend for His Minor
Child AHART,

Plaintiff-Appellant,

versus

JOE VICKERY, Individually and in his Official Capacity as Investigator
HARDIN COUNTY SHERIFF'S DEPARTMENT, ED CAIN, Individually
and in his Official Capacity as HARDIN COUNTY SHERIFF, and HARDIN
COUNTY, TEXAS,

Defendants-Appellees.

Appeal from the United States District Court for
the Eastern District of Texas
(USDC No. 1:01-CV-628)

Before REAVLEY, DAVIS, WIENER, Circuit Judges.

PER CURIAM:*

The district court did not abuse its discretion in denying Ahart's Rule 60(b)(3)

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

motion for relief from judgment. Appellees failure to disclose Officer Vickery's prior conviction did not prevent Ahart from fully and fairly presenting his case. See Gov't Fin. Servs. One Ltd. P'ship v. Peyton Place, 62 F.3d 767, 772 (5th Cir. 1995). The conviction was easily discoverable, and Ahart failed to respond to the Appellee's motion for summary judgment. AFFIRMED.