

FILED

July 26, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 06-40480
Summary Calendar

LARRY MARTIN ROCHE

Plaintiff-Appellant

v.

DOUG DRETKE, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION; UNKNOWN TEEMS, Employee of CMC; PEGGY UNKNOWN, Employee of CMC; JOHN DOE, 1, Director of University of Texas Medical Branch; JOHN DOE, II, Medical Manager for UTMB, Estelle Unit; JOHN DOE, III, Medical Manager for UTMB, Powledge Unit; JOHN DOE, IV, Director of Correctional Management Care

Defendants-Appellees

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:05-CV-280

Before WIENER, GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

Plaintiff-Appellant Larry Martin Roche, Texas prisoner # 1079651, appeals the denial of his Fed. R. Civ. P. 60(b) motion, wherein he sought relief from a judgment dismissing his 42 U.S.C. § 1983 suit for failure to exhaust

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

administrative remedies. Roche contends that the magistrate judge abused her discretion by denying his Rule 60(b) motion, insisting that he had exhausted the remedies that were available to him. Alternatively, he asserts that the exhaustion requirement should have been excused, because prison officials prevented him from filing timely grievances.

Roche's appeal from the denial of his Rule 60(b) motion does not bring up the underlying judgment for review. In *re Ta Chi Navigation (Panama) Corp., S.A.*, 728 F.2d 699, 703 (5th Cir. 1984). We review the magistrate judge's denial of Roche's Rule 60(b) motion for abuse of discretion. See *Warfield v. Byron*, 436 F.3d 551, 555 (5th Cir. 2006). Roche's Rule 60(b) motion did not indicate the statutory basis for reconsideration, and did he raise any new issues in the motion. Roche has not demonstrated that the magistrate judge abused her discretion by denying his Rule 60(b) motion. See *Matter of Colley*, 814 F.2d 1008, 1010-11 (5th Cir. 1987).

AFFIRMED.