

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-40169  
Conference Calendar

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BOBBY G. WALLACE,

Plaintiff-Appellant,

versus

JAMES A. SHAW, JR., Warden,  
ET AL.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:94-CV-855

- - - - -  
June 27, 1995

Before JONES, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Construing his brief liberally, Bobby G. Wallace challenges the district court's denial of his motion to vacate the dismissal of his civil rights complaint pursuant to 28 U.S.C. § 1915(d). The denial of a Fed. R. Civ. P. 60(b) motion is reviewed for an abuse of discretion. First Nationwide Bank v. Summer House Joint Venture, 902 F.2d 1197, 1200 (5th Cir. 1990). Under this standard, "[i]t is not enough that the granting of relief might have been permissible, or even warranted--denial must be so

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

unwarranted as to constitute an abuse of discretion." Seven  
Elves, Inc. v. Eskenazi, 635 F.2d 396, 402 (5th Cir. 1981). A  
Rule 60(b) motion may not be used as a substitute for filing a  
timely notice of appeal. Latham v. Wells Fargo Bank, N.A., 987  
F.2d 1199, 1203 (5th Cir. 1993).

AFFIRMED.