

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40218
Conference Calendar

RUBEN YBARRA,

Plaintiff-Appellant,

versus

JOHN RICHARD HERNANDEZ; RAY RIVERA;
RAYNALDO ROSENDEZ,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-96-CV-93
- - - - -

October 21, 1997

Before POLITZ, Chief Judge, and WIENER and DENNIS, Circuit Judges.

PER CURIAM:*

Rueben Ybarra, Texas prisoner # 630410, appeals the district court's denial of his Federal Rule of Civil Procedure 60(b) motion to reinstate his civil rights case which, nine months earlier, the district court had dismissed for frivolousness and for failure to state a claim. Ybarra has made no showing that the district court abused its discretion by denying the motion.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

See Carimi v. Royal Caribbean Cruise Line, Inc., 959 F.2d 1344, 1345 (5th Cir. 1992).

This appeal presents no issue of arguable merit and is thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. 5TH CIR. R. 42.2.