

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11244
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LONNIE CHARLES SMITH,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(93-CR-29-19)

February 2, 2000

Before POLITZ, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Defendant-Appellant Lonnie Charles Smith appeals the district court's denial of his motions for relief from judgment filed pursuant to Fed. R. App. P. 60(b) following the denial of his 28 U.S.C. § 2255 motion to vacate, set aside, or correct sentence. Smith did not argue in his Rule 60(b) motions that the district court erred in dismissing his § 2255 motion. Rather, Smith raised new arguments challenging the validity of his underlying criminal conviction. Rule 60(b) is not the proper vehicle in which to allege additional claims that were not raised prior to judgment.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 Behringer v. Johnson, 75 F.3d 189, 190 (5th Cir. 1996).
Accordingly, Smith cannot show that the district court abused its
discretion in refusing to consider his additional claims raised for
the first time in his Rule 60(b) motion. The district court's
orders are
AFFIRMED.