

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-20713  
Summary Calendar

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CHARLES DENNIS SMITH,

Plaintiff-Appellant,

versus

VERNETTE PORTER; ROCHELLE MCKENNEY;  
OWEN MURRAY; F. CHERIAN, Dr.;  
NEVA YARBOROUGH,

Defendants-Appellees.

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Appeal from the United States District Court for the  
Southern District of Texas  
USDC No. H-96-CV-4287

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April 4, 2000

Before JOLLY, JONES, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Charles Dennis Smith, Texas prisoner # 734317, appeals the district court's denial of his Rule 60(b) motion to reconsider the summary judgment dismissal of his 42 U.S.C. § 1983 civil rights complaint. Smith alleged that the defendants were deliberately indifferent to his serious medical needs.

Smith has not shown that any of the grounds enumerated in Rule 60(b)(1) to (5) are present and has not shown that extraordinary

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

circumstances exist that would warrant relief under Rule 60(b)(6). See Government Fin. Servs. One Ltd. Partnership v. Peyton Place, Inc., 62 F.3d 767, 773-74 (5th Cir. 1995). Smith has not shown that the magistrate judge abused his discretion in denying his Rule 60(b) motion for relief from the judgment. See Seven Elves, Inc. v. Eskenazi, 635 F.2d 396, 402 (5th Cir. 1981)(en banc). Smith's appeal is frivolous and is therefore DISMISSED. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2. Smith is cautioned that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Smith is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous because they have been previously decided by this court.

APPEAL DISMISSED; SANCTIONS WARNING ISSUED.