

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-10356
Summary Calendar

ANDRE L. GARRETT,

Plaintiff-Appellant,

versus

BENNIE R. CLICK, Chief of Dallas Police;
NFN COLLERAN, Sergeant; NFN DALESANDRO, Corporal;
DAVID CAMPBELL, Officer; MARK HUFFMAN; DALLAS
POLICE DEPARTMENT; SWAT TEAMS E3-E4,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:98-CV-1992-T

February 7, 2001

Before EMILIO M. GARZA, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

Andre L. Garrett, Texas prisoner #820874, appeals following the district court's dismissal, pursuant to summary judgment and Rule 12(b)(6), of his claims against defendants for excessive use of force. We must examine sua sponte the basis of our jurisdiction. See Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). Because Garrett's notice of appeal was timely only as to the district court's denial of his post-judgment motion pursuant

* Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

to Fed. R. Civ. P. 60(b), we do not review the underlying judgment on the merits and review the denial of the motion for abuse of discretion. See Halicki v. Louisiana Casino Cruises, Inc., 151 F.3d 465, 470 (5th Cir. 1998), cert. denied, 526 U.S. 1005 (1999); In re Ta Chi Navigation (Panama) Corp. S.A., 728 F.2d 699, 703 (5th Cir. 1984); Fed. R. App. P. 4(a).

Garrett tangentially raises on appeal the same discovery issue that he raised in his post-judgment motion, but we find the issue insufficiently briefed to demonstrate that the district court abused its discretion. Garrett has failed to adequately brief the only issue properly before us, and we therefore consider the issue abandoned. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993).

Garrett's motion to file a reply brief out of time is DENIED. The district court's judgment is AFFIRMED.