

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-40154
Conference Calendar

DARNELL SMITH,

Plaintiff-Appellant,

versus

ALLEN POLUNSKY; FRANK HOKE; SABA ENCINIS, JR.; JULIA Z. LOPEZ;
OPAL STEVENS; WILLIAM E. NEWSOM; GILBERT CERVANTES; DENNIS
PHIPPS,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-99-CV-501

August 21, 2002

Before HIGGINBOTHAM, DAVIS, and PARKER, Circuit Judges.

PER CURIAM:*

Darnell Smith, Texas prisoner #666016, appeals from the district court's denial of his postjudgment motion challenging the collection of 40 percent of the deposits into his inmate trust account pursuant to 28 U.S.C. § 1915(b)(2) to pay for his filing fees in two civil-rights actions. The district court construed Smith's motion as a FED. R. CIV. P. 60(b) motion seeking

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

relief from the court's order regarding collection of the filing fee. This court reviews the denial of a Rule 60(b) motion for an abuse of discretion. See Seven Elves, Inc. v. Eskenazi, 635 F.2d 396, 402 (5th Cir. 1981).

"[T]he language of § 1915(b)(2) is unambiguous and mandates that prisoners pay twenty percent of their monthly income for each case filed." Atchison v. Collins, 288 F.3d 177, 180 (5th Cir. 2002). Accordingly, the district court's denial of Smith's postjudgment motion is AFFIRMED.