IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

F I L E D

May 16, 2013

No. 12-40221
Summary Calendar

Lyle W. Cayce
Clerk

SOSTENES PEREZ-MORALES,

Petitioner-Appellant

v.

RICK THALER, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:09-CV-138

Before JOLLY, DAVIS, and PRADO, Circuit Judges.

PER CURIAM:[*]

Sostenes Perez-Morales (Perez) seeks our authorization to proceed in forma pauperis (IFP) in his appeal of the district court's denial of his Federal Rule of Civil Procedure 60(b) motion for relief from judgment. By his IFP motion in this court, Perez questions the district court's denial of IFP status and certification that his appeal was not in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Perez contends that the district court abused its discretion when it determined that he could not use Rule 60(b) to sidestep the requirements of Federal Rule of Civil Procedure 77(d) and Federal Rule of Appellate Procedure 4(a)(6) in connection with his notice of appeal of the district court's judgment dismissing his petition under 28 U.S.C. § 2254. There is no arguable merit to the contention that it was an abuse of discretion to deny Perez relief under Rule 60(b). *See* 28 U.S.C. § 2107(c); *Bowles v. Russell*, 551 U.S. 205, 213-15 (2007); *Dunn v. Cockrell*, 302 F.3d 491, 492 (5th Cir. 2002). Consequently, we may dismiss this frivolous appeal sua sponte. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2.

Perez's IFP motion is DENIED, and the appeal is DISMISSED.