

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-30871

United States Court of Appeals
Fifth Circuit

FILED

September 19, 2018

Lyle W. Cayce
Clerk

RICKEY WAYNE GIPSON,

Petitioner-Appellant

v.

KEITH DEVILLE, WARDEN, WINN CORRECTIONAL CENTER,

Respondent-Appellee

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:11-CV-1954

Before DENNIS, SOUTHWICK, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Rickey Wayne Gipson, Louisiana prisoner # 325027, moves for a certificate of appealability (COA) to appeal the district court's denial of his Federal Rule of Civil Procedure 60(b) motion for reconsideration of the judgment denying his 28 U.S.C. § 2254 application challenging his conviction for attempted manslaughter. *See Ochoa Canales v. Quarterman*, 507 F.3d 884, 888 (5th Cir. 2007). We must examine the basis of our jurisdiction, sua sponte, if necessary. *United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000). Our

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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jurisdiction is predicated upon the valid jurisdiction of the district court. *See id.* The instant appeal is frivolous because Gipson's Rule 60(b) motion, which challenged the district court's rejection on the merits of his ineffective assistance claim and asserts that he was denied due process at his sentencing proceedings, was a successive § 2254 application. *See Gonzalez v. Crosby*, 545 U.S. 524, 530-33 (2005). Thus, the district court did not have jurisdiction to consider the motion without authorization from this court, which was neither sought nor given. *See In re Sepulvado*, 707 F.3d 550, 556 (5th Cir. 2013).

The appeal is DISMISSED for lack of jurisdiction, and Gipson's motion for a COA is DENIED AS MOOT. Gipson's motion to amend his COA brief is DENIED. Likewise, his motions for leave to view sealed documents in the district court and for production of those documents are DENIED.