

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-2432
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANKIE LEE TURNER and
RICHARD VERNON QUICK,

Defendants-Appellants.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-H-92-1109
- - - - -

May 7, 1993

Before REAVLEY, KING, and DAVIS, Circuit Judges.

PER CURIAM:*

Frankie Lee Turner and Richard Vernon Quick appeal the district court's modification of their sentences asserting that their convictions should be reversed and they should be allowed to plead anew. The district court summarily denied their § 2255 motion ruling that it had previously entered an order correcting the judgment, thereby rendering the present motion moot. The defendants served a "Motion for Reconsideration" within ten days of the district court's entry of the order denying their § 2255 motion.

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

The "reconsideration" motion is thus a Rule 59(e) motion and nullifies the simultaneously-filed notice of appeal. See Harcon Barge Co. v. D & G Boat Rentals, Inc., 784 F.2d 665, 668-70 (5th Cir.) (en banc), cert. denied, 479 U.S. 930 (1986). Therefore, the appellants' failure to file a notice of appeal after the denial of the Rule 59(e) motion results in the lack of a valid notice of appeal and does not invoke this Court's jurisdiction. Accordingly, the appeal is DISMISSED.