IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-2557

Summary Calendar

MARTIN CASAS,

Plaintiff-Appellant,

versus

EXXON CORPORATION,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
CA H 88 4420

June 16, 1993

Before KING, DAVIS and WIENER, Circuit Judges.

PER CURIAM:*

Martin Casas originally brought this case in November 1988, alleging that, while working on an oil platform owned by Exxon Corporation in February 1987, he slipped on oil, fell, and sustained personal injuries. During its lengthy procedural history, this case has been dismissed three times, the last of which occurred in February 1992. Following this third dismissal, Casas moved for relief from judgement pursuant to Rule 60(b) of

---

* 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 Pursuant to that rule, we have determined that this opinion should not be published.

the Federal Rules of Civil Procedure, and that motion was denied. Casas now appeals from the order denying his motion for relief from judgment. Finding that the district court did not abuse its discretion in denying Casas' Rule 60(b) motion, we affirm.

I

This case was first dismissed in October 1990 when neither party appeared at a scheduled docket call. However, Casas moved for reinstatement. He explained that his counsel had not received notice of the docket call due to a change of address, and he informed the court of his counsel's new address. Based upon Casas' explanation of the circumstances surrounding his failure to appear, the court granted his motion for reinstatement.[1]

The court then ordered a docket call for August 1991. Again, the district court sent notice of the docket call to the former address of Casas' counsel, and this notice was returned to the court unopened. Casas again failed to appear, and his case was again dismissed. Exxon's counsel notified Casas of the dismissal and, in September 1991, Casas again moved to have his

---

[1] Exxon asserts that Casas (1) failed to appeal from this first dismissal within thirty days and (2) failed to move within one year for reinstatement pursuant to Rule 60(b). See FED. R. APP. P. 4(b); FED. R. CIV. P. 60(b). Specifically, according to Exxon, "the court was without authority to grant a motion to reinstate which was filed more than thirty days after the order was signed and this Court now has no jurisdiction to hear the case, since that dismissal was not appealed within thirty (30) days." Casas' motion following the first dismissal of his case was clearly a motion for relief from judgment and, although Casas did not explicitly state that he was moving pursuant to Rule 60(b), we conclude that the district court did not abuse its discretion in treating his motion as a Rule 60(b) motion.

case reinstated. This time, he represented to the court that Exxon did not oppose reinstatement of the case; Exxon asserts that it never represented to Casas that it did not oppose reinstatement. The court granted Casas' second motion for reinstatement.

The district court then imposed a January 13, 1992 discovery deadline. On that very day, Casas substituted counsel by filing an "Unopposed Motion for Substitution." According to Exxon, it did not receive a copy of this motion and did not represent that it would not oppose Casas' substitution of counsel. Moreover, well aware that the discovery deadline had passed, Casas then provided the court with notice that the depositions of experts he had designated in October 1991 would be taken on February 4-6, 1992. Exxon, which was not provided with copies of these deposition notices, first learned of the depositions on February 4, 1992--the date on which the first deposition was to be taken. Exxon therefore moved to quash the depositions and for sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure. The court granted Exxon's motions and dismissed Casas' case with prejudice on February 24, 1992. On April 2, 1992, Casas moved for Rule 60(b) relief from the court's entry of sanctions pursuant to Rule 11. Casas never appealed from the underlying order dismissing his case, and he filed his Rule 60(b) motion seven days beyond the thirty days allotted for filing a notice of appeal pursuant to Rule 4(b) of the Federal Rules of Appellate

Procedure. The district court denied Casas' Rule 60(b) motion, and Casas appeals.

II

The underlying order in the case before us is an imposition of sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure. Rather than appealing from that order, Casas sought relief pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. We review district court rulings on Rule 60(b) motions for abuse of discretion, and relief under Rule 60(b) is reserved for "special situations justifying extraordinary relief, [where] . . . the mistake was attributable to special circumstances, not simply that the court made an erroneous ruling." Chick Kam Choo v. Exxon Corp., 699 F.2d 693, 695 (5th Cir. 1983) (citations omitted), cert. denied, 464 U.S. 826, 104 S. Ct. 98 (1983). As we have explained,

> [a] party cannot have relief under Rule 60(b)(1) merely because he is unhappy with the judgment, instead he must make some showing of why he was justified in failing to avoid mistake or inadvertence. Gross carelessness is not enough. Ignorance of the rules is not enough, nor is ignorance of the law . . . .

Id. We have also held that a Rule 60(b) motion is improper when "[t]he issues raised in the motion were extant at the time of judgment, and concern only matters implicated on the fact of that judgment, and which are, therefore, subject to review on direct appeal." Pryor v. United States Postal Service, 769 F.2d 281, 288 (5th Cir. 1985). In Pryor, we determined that "[t]he bases on which relief was sought under Rule 60(b) were known well within time to appeal," and we affirmed the district court's

denial of the Rule 60(b) motion. Id. at 288. We expressly stated that "Rule 60(b) simply may not be used as an end run to effect an appeal outside the specified time limits, otherwise those limits become essentially meaningless." Id.

Casas has failed to present this court with a reasonable explanation for not appealing from the district court's dismissal of his case. Rather, in attempting to establish special circumstances justifying Rule 60(b) relief, he has asserted that:

> it was apparent to Casas that when the court entered the sanctions, it was not fully apprised of the unique circumstances[[2]] of the case. Casas was confident that once the court was apprised of these circumstances and that the oppressive sanction of dismissal was the first sanction that had been entered, the court would reconsider its motion and would reinstate the case for trial.[3]

Casas' assertion reveals that he was well aware of the circumstances forming the basis for his Rule 60(b) motion at the time the district dismissed his case. Therefore, Casas could have raised these issues by timely appealing from the district court's judgment, and this is the avenue of relief which he should have traversed. See Pryor, 769 F.2d at 288. Accordingly,

---

[2] We note that the only "unique circumstances" presented by Casas involve the change-of-address mishap resulting in the first two dismissals of this case. Casas has not introduced evidence of unique circumstances offering a satisfactory explanation for his: (1) misrepresentations to the district court regarding Exxon's opposition to his motions for reinstatement and substitution of counsel; (2) failure to observe the district court's discovery deadline when scheduling the depositions of his expert witnesses; and (3) failure to provide Exxon with notice of these depositions.

[3] Emphasis has been added.

we conclude that the district court did not abuse its discretion in denying Casas' Rule 60(b) motion.

III

For the foregoing reasons, we AFFIRM the district court's denial of Casas' Rule 60(b) motion. We also order Casas' counsel, Michael R. Wadler and S. Scott West, to bear the cost of this appeal.