

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-8292

Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GERALD L. TIPSWORD, ET AL.,

Defendants,

GERALD L. TIPSWORD,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
(A-91-CA 658-SS)

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(October 17, 1994)

Before GARWOOD, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:\*

Gerald Tipsword appeals from the district court's denial of his Rule 60(b) motion for relief from judgment. The district court did not abuse its discretion and, therefore, we affirm.

I.

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\*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 Pursuant to that Rule, the Court has determined that this opinion should not be published.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 government filed suit against Gerald Tipsword, Mary Tipsword, and Futura Health Care Services, Inc. to collect an overpayment made under the medicare program. Trial was set for December 3, 1992, and the clerk sent notice of such to Tipsword's last known address and to David Lewis, the attorney Tipsword identified as handling the case. No one appeared at trial on behalf of the defendants. The district court entered judgment for the government on December 23, 1992. Tipsword filed a timely motion for a new trial, which the district court denied on January 18, 1993. On March 1, 1993, Tipsword sent a letter to the court again requesting a new trial. The court deemed the letter to be a Rule 60(b) motion for relief from the judgment and denied it on March 8, 1993. Tipsword filed a notice of appeal on April 9, 1993 challenging both the underlying judgment and the denial of his Rule 60(b) motion.

## II.

This court does not have jurisdiction to consider Tipsword's attack on the validity of the district court's December 23, 1992 judgment. Tipsword had sixty days in which to file a notice of appeal from the judgment. Fed. R. App. P. 4(a). Since he filed a motion for new trial, the sixty day period ran from January 18, 1993. Fed. R. App. P. 4(a)(4). Denial of a Rule 60(b) motion does not extend the time for filing a timely appeal of the underlying judgment. First Nationwide Bank v. Summer House Joint Venture, 902 F.2d 1197, 1200 (5th Cir. 1990). Thus, when Tipsword failed to file a notice of appeal by March 19, 1993, the judgment became

unreviewable. See Aucoin v. K-Mart Apparel Fashion Corp., 943 F.2d 6, 8 (5th Cir. 1991) (court may not treat appeal from denial of Rule 60(b) motion as appeal from underlying judgment).

Tipsword, however, did file a timely appeal of the district court's denial of his Rule 60(b) motion. In support of his motion, Tipsword argued that he was entitled to relief from the judgment because he received notice of the original trial after its scheduled date, his attorney failed to notify him of the trial date, and his attorney was unavailable to represent him due to a previous engagement.

The district court did not abuse its discretion in denying Tipsword's requested relief. Gross carelessness, ignorance of the rules, or ignorance of the law are insufficient bases for Rule 60(b) relief. Edward H. Bohlin Co., Inc. v. Banning Co., Inc., 6 F.3d 350, 357 (5th Cir. 1993). A party has a legal duty to protect his own interests. Id. Tipsword negligently monitored the status of the case by failing to check his mail for weeks at a time. Moreover, Tipsword's attorney never made an appearance in the case and denied representing Tipsword in the matter.

AFFIRMED.