

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10288
Conference Calendar

FRANK RAMIREZ GUEVARA,

Plaintiff-Appellant,

versus

JACK STEWART, Deputy, ET AL.,

Defendants,

JACK STEWART, Deputy and
MIKE HARRIS, Deputy,

Defendants-Appellees.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 6:90-CV-112
- - - - -
(September 20, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:*

We review the denial of a Fed. R. Civ. P. 60(b) motion for an abuse of discretion. Latham v. Wells Fargo Bank, N.A., 987 F.2d 1199, 1203 (5th Cir. 1993). Frank Ramirez Guevara filed a Rule 60(b) motion attacking the merits of the underlying judgment granting the defendants' motion for summary judgment, after his appeal was dismissed for lack of jurisdiction. A Rule 60(b)

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

motion may not be used as a substitute for filing a timely notice of appeal. Latham, 987 F.2d at 1203. We have held that the district court did not abuse its discretion by denying a Rule 60(b) motion if the motion appeared to be a substitute for a timely appeal. See United States v. O'Neil, 709 F.2d 361, 372-75 & n.12 (5th Cir. 1983) (the "catchall" subsection of Rule 60(b)(6) is not intended to provide a remedy for failing to file a timely notice of appeal). The district court did not abuse its discretion by denying Guevara's motion.

For the first time on appeal Guevara argues that he was denied access to the courts because prison officials prevented him from filing a timely notice of appeal. He contends that he could not meet the jurisdictional deadline because prison officials continuously moved him within the Texas prison system. This Court need not address issues not considered by the district court. "[I]ssues raised for the first time on appeal are not reviewable by this [C]ourt unless they involve purely legal questions and failure to consider them would result in manifest injustice." Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991).

The judgment of is AFFIRMED; the motion for public record is DENIED.