

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10818
Conference Calendar

ROY MARION JONES,

Petitioner-Appellant,

versus

RON C. BURKHART, Warden,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:93-CV-573-A
- - - - -

(January 24, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,
Circuit Judges.

PER CURIAM:*

Roy Marion Jones filed a petition pursuant to 28 U.S.C. § 2241 seeking a reduction in his federal sentence from his 1991 conviction for a 1982 conspiracy to import and possess with intent to distribute marijuana. The district court denied the petition. Jones filed a motion for reconsideration arguing that the district court did not consider his objections to the magistrate judge's recommendation. The district court

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

subsequently denied the motion stating that it had considered the objections and found them to be without merit.

Jones next filed a motion for oral hearing on his motion for reconsideration. The district court denied the motion for oral hearing as untimely and moot. Jones's motion for oral hearing is construed as a motion for relief from judgment under Fed. R. Civ. P. 60(b). It is from the denial of this motion that Jones appeals.

"Motions under Rule 60(b) are directed to the sound discretion of the district court and its denial of relief upon such motion will be set aside on appeal only for abuse of that discretion." Carimi v. Royal Caribbean Line, Inc., 959 F.2d 1344, 1345 (5th Cir 1992) (quoting Seven Elves, Inc. v. Eskenazi, 635 F.2d 396, 402 (5th Cir. 1981)). Under this standard, "[i]t is not enough that the granting of relief might have been permissible or even warranted - denial must have been so unwarranted as to constitute an abuse of discretion." Seven Elves, 635 F.2d at 402.

The substance of the Rule 60(b) motion was that the district court should have considered his objections to the magistrate judge's recommendation. The district court did consider these objections. Jones has not made any showing that the district court abused its discretion in denying his Rule 60(b) motion for oral hearing to consider his objections.

AFFIRMED.