

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40959
Conference Calendar

DONNY RAY SHAW,

Petitioner-Appellant,

versus

GARY L. JOHNSON, DIRECTOR, TEXAS DEPARTMENT OF
CRIMINAL JUSTICE, INSTITUTIONAL DIVISION

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:90-CV-312
- - - - -

June 25, 1996

Before HIGGINBOTHAM, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Donny Ray Shaw, (#397642), appeals the denial of his motion construed by the district court as a motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b) in this habeas proceeding under 28 U.S.C. § 2254. Shaw did not appeal the judgment denying habeas relief, but waited over three years to file objections to the magistrate judge's report. Because Shaw

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

does not address on appeal the issue regarding the district court's action in denying the Rule 60(b) motion, he has abandoned the only issue on appeal before this court, and this court need not address the issue. Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). Accordingly, Shaw's appeal is DISMISSED AS FRIVOLOUS. See 5th Cir. R. 42.2.

We caution Shaw that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Shaw is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous because they have been previously decided by this court.

APPEAL DISMISSED; SANCTION WARNING ISSUED.