

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-60017
Conference Calendar

JAMES LEE TOLBERT, JR.,

Plaintiff-Appellant,

versus

MISSISSIPPI DEPARTMENT OF
CORRECTIONS, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 4:94CV289-D-D
- - - - -

April 19, 1996

Before DUHÉ, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:*

Appellant James Tolbert, Jr., did not file a notice of appeal after the district court denied his motion for reconsideration, which was timely as a Fed. R. Civ. P. 59(e) motion. Therefore, this court cannot consider the motion or the attached documents in adjudicating this appeal. Fed. R. App. P. 4(a)(4). Based on the record then before it, the district court did not abuse its discretion by dismissing Tolbert's civil rights action without prejudice, for failing to exhaust his

Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

administrative remedies and for failing to comply with an order to provide a status report within 150 days. See Pedraza v. Ryan, 18 F.3d 288 (5th Cir. 1990).

AFFIRMED.