

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-60192  
Conference Calendar

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CEDRIC BROOKS,

Plaintiff-Appellant,

versus

HARVEY TACKETT ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 4:97-CV-205-B-D  
- - - - -

August 19, 1998

Before KING, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:\*

Cedric Brooks, Mississippi inmate #75026, appeals the district court's denial of in forma pauperis status, resulting in the closure of his case, for failure to exhaust administrative remedies. See 42 U.S.C. § 1997e(a). He also appeals the denial of his postjudgment motion which asked for reconsideration. See Fed. R. Civ. P. 60(b).

The notice of appeal is untimely as to the underlying judgment. See Fed. R. App. P. 4(a). Thus, we lack jurisdiction

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

over it. See Nelson v. Foti, 707 F.2d 170, 171-72 (5th Cir. 1983).

Brooks' argument calls into question the merits of the underlying judgment. "[T]he denial of a Rule 60(b) motion does not bring up the underlying judgment for review." In re Ta Chi Navigation (Panama) Corp. S.A., 728 F.2d 699, 703 (5th Cir. 1984).

This appeal is without arguable merit and thus frivolous. It is DISMISSED. See 5th Cir. R. 42.2.

Additionally, Brooks is warned that future frivolous appeals will invite the imposition of sanctions. Brooks should review any pending appeals to ensure that they do not raise frivolous arguments.

APPEAL DISMISSED; SANCTION WARNING ISSUED.