

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 13-10995
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 10, 2014

Lyle W. Cayce
Clerk

JAMES BELL MCCOY, SR.,

Petitioner - Appellant

v.

WILLIAM STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent - Appellee

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:09-CV-405

Before BARKSDALE, HAYNES, and HIGGINSON, Circuit Judges.

PER CURIAM:*

James Bell McCoy, Sr., Texas prisoner # 1299701, proceeding *pro se* and *in forma pauperis*, appeals the denial of his motion to recuse the district judge who presided over two matters in which McCoy challenged a state-court conviction. The court denied the motion because the case was closed and on appeal to this court.

* Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

No. 13-10995

“[T]he filing of a valid notice of appeal from a final order of the district court divests that court of jurisdiction to act on the matters involved in the appeal, except to aid the appeal, correct clerical errors, or enforce its judgment”. *Ross v. Marshall*, 426 F.3d 745, 751 (5th Cir. 2005) (citation and internal quotation marks omitted). McCoy filed his motion to recuse after filing notices of appeal from the denial of his 28 U.S.C. § 2254 petition and the denial of his motion filed pursuant to Federal Rule of Civil Procedure 60(b). Accordingly, the district court lacked jurisdiction to rule on the recusal motion.

AFFIRMED.