

United States Court of Appeals
for the Fifth Circuit

No. 26-10155
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 9, 2026

Thomas B. Plunkett, III
Clerk

TRELLIS KYLE DAY,

Plaintiff—Appellant,

versus

AMAZON.COM SERVICES, L.L.C.,

Defendant—Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CV-512

Before HAYNES, GRAVES, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

Trellis Kyle Day, proceeding *pro se* and *in forma pauperis*, appeals from the district court's denying his FED. R. CIV. P. 60(b) motion for relief from judgment. Because he appeals only within the 30-day deadline for his Rule 60(b) motion, our court does not address his contentions regarding the Rule

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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12(b)(6) dismissal. He abandons his Rule 60(b) contention as a result of inadequate briefing.

I

Day initially filed this action against Amazon.com Services, L.L.C. (Amazon), contending it discriminated against him by failing to accommodate his disability and approve a leave of absence. Amazon moved to dismiss pursuant to FED. R. CIV. P. 12(b)(6). Although the district court stated Amazon “raised several potentially meritorious reasons as to why some or all of Plaintiff’s claims against it should be dismissed[,]” it afforded Day an opportunity to amend his complaint considering his *pro se* status.

Day timely filed an amended complaint, contending employment discrimination under the Vietnam Era Veterans’ Readjustment Assistance Act (VEVRAA) and the Americans with Disabilities Act of 1990 (ADA), failure to accommodate under the ADA, further allegations under the ADA, and failure to send a copy of Amazon’s motion to dismiss. Amazon once again moved to dismiss pursuant to Rule 12(b)(6). A magistrate judge issued findings, conclusions, and a recommendation (FCR), recommending Day’s action be dismissed. Day filed objections to the FCR. The district court adopted the FCR, granted Amazon’s motion, and dismissed Day’s action with prejudice. Day did not appeal.

Nearly one year later, Day moved for relief from judgment pursuant to FED. R. CIV. P. 60(b)(1), (2), (3), and (6). The district court denied the motion. Day timely appealed. In his initial brief, Day raises five contentions challenging the district court’s dismissing his amended complaint. He contends the court: improperly dismissed his amended complaint pursuant to Rule 12(b)(6); failed to liberally construe his *pro se* pleadings; improperly resolved disputed factual matters and drew inferences against him at the pleading stage; overlooked allegations and evidence in his amended

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complaint and objections to the FCR; and improperly and prematurely dismissed his action with prejudice before discovery. Finally, Day also contends the district court abused its discretion in denying his Rule 60(b) motion.

II

We do not have jurisdiction to consider Day's contentions regarding the Rule 12(b)(6) dismissal. "In a civil case . . . the notice of appeal . . . must be filed with the district clerk within 30 days after entry of the judgment or order appealed from." FED. R. APP. P. 4(a)(1)(A). Moreover, "an appeal from the denial of Rule 60(b) relief does not bring up the underlying judgment for review." *Williams v. Chater*, 87 F.3d 702, 705 (5th Cir. 1996). A Rule 60(b) motion filed after 28 days from the underlying judgment does not extend the time to appeal that judgment. FED. R. APP. P. 4(a)(4)(A)(vi) (extension of time to appeal only if Rule 60 motion is filed within time allowed for Rule 59 motion); FED. R. CIV. P. 59(b), (e) (28-day deadline).

Day did not appeal the district court's dismissing his amended complaint with prejudice within 30 days. Because his Rule 60(b) motion was filed nearly one year later, it did not extend the time to appeal the dismissal. Thus, his timely appeal from the denial of Rule 60(b) relief does not bring the underlying dismissal before this court. Day even concedes in his reply brief "the underlying judgment is not before the Court for direct review." Accordingly, we do not have jurisdiction to consider Day's first five contentions, each of which challenge the dismissal of his amended complaint. *See Bowles v. Russell*, 551 U.S. 205, 214 (2007) ("[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement.").

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III

We do have jurisdiction to consider Day’s contention regarding the district court’s denial of his Rule 60(b) motion. We review the denial for abuse of discretion. *Provident Life & Accident Ins. Co. v. Goel*, 274 F.3d 984, 997 (5th Cir. 2001); *Silvercreek Mgmt., Inc. v. Banc of Am. Sec., LLC*, 534 F.3d 469, 472 (5th Cir. 2008). “It is not enough that the granting or relief might have been permissible, or even warranted—denial must have been so *unwarranted* as to constitute an abuse of discretion.” *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 402 (5th Cir. 1981) (citing *Fackelman v. Bell*, 564 F.2d 734, 736 (5th Cir. 1977)).

An appellant’s brief must contain his “contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies.” FED. R. APP. P. 28(a)(8)(A). “Although we liberally construe briefs of *pro se* litigants and apply less stringent standards to parties proceeding *pro se* than to parties represented by counsel, *pro se* parties must still brief the issues and reasonably comply with the standards of Rule 28.” *Grant v. Cuellar*, 59 F.3d 523, 524 (5th Cir. 1995); *see also Toole v. Peak*, 361 F. App’x 621 (5th Cir. 2010) (“[A] *pro se* appellant still must actually argue something that is susceptible of liberal construction.”). Conclusory assertions, without supporting argument or authority, are insufficient to preserve an issue for appellate review. *See Smith v. Giddings, Tex.*, 486 F. App’x 420, 421 (5th Cir. 2012) (conclusory assertions with no case authority or analysis are insufficient even for *pro se* litigants); *Burke v. Ocwen Loan Servicing, L.L.C.*, 855 F. App’x 180, 185–86 nn.3–4 (5th Cir. 2021) (same). An appellant abandons an issue by failing to adequately brief it. *Yohey v. Collins*, 985 F.2d 222, 224–25 (5th Cir. 1993); *Green v. State Bar of Tex.*, 27 F.3d 1083, 1089 (5th Cir. 1994).

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In his brief, Day asserts the district court abused its discretion in denying Rule 60(b) relief because he “identified overlooked allegations, procedural concerns, disputed factual matters, and additional issues warranting reconsideration through the Rule 60(b) motion.” He contends the denial “compounded the underlying dismissal errors and constituted an abuse of discretion under the circumstances presented.” Beyond these conclusory assertions and a citation to his Rule 60(b) motion, Day develops no argument explaining how the district court abused its discretion. He does not identify which of the four Rule 60(b) grounds invoked before the district court warrants appellate relief, apply the requirements of any of those provisions to the present circumstances of his action, or cite authority supporting relief under Rule 60(b). His citation to his Rule 60(b) motion does not substitute for briefing those arguments on appeal nor does it explain how the district court’s denying those arguments constituted an abuse of discretion.

Even liberally construing the Rule 60(b) section of Day’s initial brief, he fails to demonstrate entitlement to relief under any provision of Rule 60(b). Because he fails to adequately brief his challenge, the only issue properly before this court is abandoned. *See Yohey*, 985 F.2d at 224–25. Accordingly, Day fails to show the district court abused its discretion.

For these reasons, the district court’s denial of Rule 60(b) relief is **AFFIRMED**.