

October 14, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-21154
Summary Calendar

COYETT DEON JOHNSON,

Plaintiff-Appellant,

versus

NEIL ADLER, Warden; GRONDOLSKI,
Associate Warden; NEAL; PORTER; GONZALEZ,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-03-CV-1523

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Coyett Deon Johnson, federal prisoner # 07403-064, appeals from the district court's dismissal without prejudice of his 42 U.S.C. § 1983 civil rights complaint for want of prosecution. Because Johnson's motion filed with this court pursuant to Rule 60(b) does not clearly evince an intent to appeal from the district court's dismissal order, this court does not have jurisdiction to entertain this appeal. See Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). Because the clerk's office inadvertently docketed Johnson's Rule 60(b) motion as a notice of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appeal, the district court's jurisdictional impediment to ruling on the motion is now removed. The appeal is DISMISSED FOR LACK OF JURISDICTION. Appellant's request for leave to file reply brief out of time is DENIED.