

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-30842  
Conference Calendar

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BUFORD ANTHONY DUPUY,

Petitioner-Appellant,

versus

BURL CAIN, Warden, Louisiana State Penitentiary,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 96-CV-1137  
- - - - -

August 18, 1998

Before KING, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:\*

Buford Anthony Dupuy (#78540) has given notice of his appeal from the district court's judgment dismissing his federal habeas petition. Prior to filing his notice of appeal, Dupuy sent the district court a letter requesting reconsideration of the judgment. See instrument 30. The district court has taken no action on Dupuy's letter. Because Dupuy's letter calls into question the correctness of the judgment and was filed within 10 days of entry of the judgment, it is a Fed. R. Civ. P. 59(e)

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

motion. See Harcon Barge Co. v. D & G Boat Rentals, Inc., 784 F.2d 665, 667 (5th Cir. 1986) (en banc); see also Houston v. Lack, 487 U.S. 266 (1988). Under Fed. R. App. P. 4(a)(4), Dupuy's notice of appeal is ineffective until the date of entry of an order disposing of the Rule 59(e) motion. Accordingly, the appeal is DISMISSED. See Burt v. Ware, 14 F.3d 256, 260-61 (5th Cir. 1994).

APPEAL DISMISSED.