

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11135
Conference Calendar

RICHARD C. HOWARD, doing business as C.D. Assets, Inc.,
doing business as Howard Trucking, Inc., doing
business as Mezzagez Publishing, Inc., doing business
as Mezzagez Records, Inc., doing business as Mezzagez
Productions, Inc., doing business as North Texas
Autoworks, Inc., doing business as Air of Zulu, Inc.,
doing business as R. Howard and Associates, Inc., and
all outstanding creditors of these named entities,

Plaintiff-Appellant,

v.

ANDREW STOVER, individually and in his official capacity;
JOHN VANCE, individually and in his official capacity;
LISA PATTERSON, individually and in her official capacity;
JOHN BOERNER, individually and in his official capacity;
FEDERAL BUREAU OF INVESTIGATION, unknown agent;
STATE OF TEXAS, Dallas County,

Defendants-Appellees.

* * * * *

RICHARD C. HOWARD, doing business as C.D. Assets, Inc.,
doing business as Howard Trucking, Inc., doing
business as Mezzagez Publishing, Inc., doing business
as Mezzagez Records, Inc., doing business as Mezzagez
Productions, Inc., doing business as North Texas
Autoworks, Inc., doing business as Air of Zulu, Inc.,
doing business as R. Howard and Associates, Inc., and
all outstanding creditors of these named entities,

Plaintiff-Appellant,

v.

STATE OF TEXAS; DALLAS COUNTY OF; JOHN VANCE, Dallas County
District Attorney; ANDREW STOVER, Dallas County Assistant
District Attorney; LISA PATTERSON, Dallas County Investigator;
JIM BOWLES, Dallas County Sheriff; TEXAS DEPARTMENT OF
CRIMINAL JUSTICE, INSTITUTIONAL DIVISION,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:95-CV-114-T
USDC No. 3:95-CV-133-T

October 19, 1999

Before JONES, SMITH, and STEWART, Circuit Judges.

PER CURIAM:*

Richard C. Howard (#662409), a state prisoner, has appealed the district court's judgment dismissing his civil rights action. Howard has a postjudgment motion pending in the district court. See document number 171. This pleading is construed as a Fed. R. Civ. P. 59(e) motion because it was filed within 10 days of entry of judgment and challenges the correctness of the judgment. Harcon Barge Co. v. D & G Boat Rentals, Inc., 784 F.2d 665, 668 (5th Cir. 1986) (en banc); see Fed. R. Civ. P. 6(a).

The district court has not yet entered an order disposing of the motion. Howard's notice of appeal is ineffective until the date of entry of an order disposing of the Rule 59(e) motion. Fed. R. App. P. 4(a)(4)(B)(i). If the district court denies the postjudgment motion, the notice of appeal will then become effective. Id.; Burt v. Ware, 14 F.3d 256, 260-61 (5th Cir. 1994).

APPEAL DISMISSED.

* 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.