

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Arthur Joyal Barker v. Ruth Brouwer

582 F. App'x 540 (5th Cir. 2014) · No. 13-40983 · Decided October 10, 2014

OPINION

PER CURIAM.

Case: 13-40983 Document: 00512800283 Page: 1 Date Filed: 10/10/2014 IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT United States Court of Appeals No. 13-40983 Fifth Circuit FILED Summary Calendar October 10, 2014 Lyle W. Cayce ARTHUR JOYAL BARKER, Clerk Plaintiff-Appellant v. RUTH BROUWER, Medical Practitioner; JOYCE FRANCIS, Vocational Nurse; THOMAS MACIEL, Registered Nurse, Defendants-Appellees Appeal from the United States District Court for the Eastern District of Texas USDC No. 9:12-CV-10 Before HIGGINBOTHAM, JONES, and HIGGINSON, Circuit Judges PER CURIAM: * Arthur Joyal Barker, Texas prisoner # 1290750, is appealing from the denial of his Federal Rule of Civil Procedure 60(b) motion filed in his 42 U.S.C. § 1983 proceeding.

We must examine the basis of our jurisdiction, sua sponte, if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). A timely * 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. Case: 13-40983 Document: 00512800283 Page: 2 Date Filed: 10/10/2014 No. 13-40983 notice of appeal is a jurisdictional requirement in a civil case.

Bowles v. Russell, 551 U.S. 205, 213-14 (2007). Barker failed to file a timely notice of appeal following the denial of his Rule 60(b) motion or a timely motion to extend the time to file a notice of appeal. Consequently, we are without jurisdiction to consider the appeal. See *Williams v. Chater*, 87 F.3d 702, 704-06 (5th Cir. 1996).

Therefore, the appeal is DISMISSED for lack of appellate jurisdiction. See *Bowles*, 551 U.S. at 214. Barker's motion for the appointment of counsel is DENIED. 2