

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 20-7040**

---

DAVID LEE DAVIS,

Petitioner - Appellant,

v.

BARBARA RICKARD, Warden,

Respondent - Appellee.

---

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. David A. Faber, Senior District Judge. (1:18-cv-01192)

---

Submitted: November 19, 2020

Decided: November 24, 2020

---

Before WILKINSON, KING, and QUATTLEBAUM, Circuit Judges.

---

Affirmed by unpublished per curiam opinion.

---

David Lee Davis, Appellant Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Lee Davis, a federal prisoner, appeals the district court's order denying relief on his Fed. R. Civ. P. 60(b) motion to reconsider<sup>1</sup> the court's previous order adopting the recommendation of the magistrate judge and denying relief on Davis' 28 U.S.C. § 2241 petition.<sup>2</sup> We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Davis v. Rickard*, No. 1:18-cv-01192 (S.D.W. Va. July 6, 2020). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*

---

<sup>1</sup> We assume that the postmark date appearing on the envelope containing the undated motion for reconsideration is the earliest date it could have been properly delivered to prison officials for mailing to the court. *See Houston v. Lack*, 487 U.S. 266, 276 (1988) (establishing prison mailbox rule). Accordingly, Davis' motion is properly construed as a Fed. R. Civ. P. 60(b) motion, as it was filed more than 28 days after entry of the district court's judgment. *See MLC Auto., LLC v. Town of S. Pines*, 532 F.3d 269, 277-78 (4th Cir. 2008).

<sup>2</sup> To the extent Davis seeks to challenge the district court's denial of his 28 U.S.C. § 2241 petition, that order is not properly before this court. *See Aikens v. Ingram*, 652 F.3d 496, 501 (4th Cir. 2011) (en banc) (“[A]n appeal from denial of Rule 60(b) relief does not bring up the underlying judgment for review.” (internal quotation marks omitted)).