

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 18, 2009

Charles R. Fulbruge III
Clerk

No. 08-40003
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JUAN BERMEA-CEPEDA

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:98-CR-571-ALL

Before JONES, Chief Judge, and STEWART and OWEN, Circuit Judges.

PER CURIAM:*

Juan Bermea-Cepeda, federal prisoner #67637-079, appeals the district court's dismissal of his action that he characterized as a motion to reconsider a denial of a Fed. R. Civ. P. 60(b) motion. In 1999, a jury found Bermea-Cepeda guilty of possession with the intent to distribute less than 50 kilograms of marijuana, knowingly using and carrying a firearm during and in relation to a drug trafficking crime, illegal reentry, being a felon in possession of a firearm,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

being an illegal alien in possession of a firearm, and attempting to kill a border patrol agent. In 2002, the district court sentenced Bermea-Cepeda, following an appeal and remand, to a total of 206 months of imprisonment.

On appeal to this court, Bermea-Cepeda argues that the district court erred in denying his FED. R. CIV. P. 60(b) motion, filed in October 2007. Bermea-Cepeda asserts that the judgment of conviction was void under FED. R. CIV. P. 60(b) because he was denied a speedy trial in violation of his constitutional rights. As criminal proceedings in the United States district courts are governed by the Federal Rules of Criminal Procedure, FED. R. CRIM. P. 1, and not the Rules of Civil Procedure, Bermea-Cepeda's motion under FED. R. CIV. P. 60(b) was an unauthorized action which the district court was without jurisdiction to entertain. *See United States v. Early*, 27 F.3d 140, 142 (5th Cir. 1994). Bermea-Cepeda has thus appealed from the dismissal of a meaningless, unauthorized action. *See id.* We affirm on the basis that the district court lacked jurisdiction. *See id.*

AFFIRMED.