

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

No. 18-20354
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
April 15, 2019
Lyle W. Cayce
Clerk

JESSE RANDOLPH CURRY, JR.,

Petitioner-Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:09-CV-2119

Before JONES, ELROD, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Jesse Randolph Curry, Jr., Texas prisoner # 939167, moves for a certificate of appealability (COA) to challenge the district court's denial of his motion for leave to file a proposed Federal Rule of Civil Procedure 60(b) motion. The Rule 60(b) motion challenged the denial of Curry's 28 U.S.C. § 2254 habeas corpus petition, which attacked his Texas aggravated assault conviction.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Curry argues that the motion for leave to file was improperly denied on the ground that his Rule 60(b) motion was time barred.

To the extent that Curry was required to obtain a COA, he has not shown that reasonable jurists could conclude that the district court erred in denying the motion for leave to file a Rule 60(b) motion. *See Hernandez v. Thaler*, 630 F.3d 420, 428 (5th Cir. 2011). Accordingly, his request for a COA is DENIED. To the extent that he does not need a COA, the order of the district court is AFFIRMED. *See Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 402 (5th Cir. Unit A Jan. 1981).