

***United States Court of Appeals***

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

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October 03, 2022

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 22-10315 Skief v. Lumpkin  
USDC No. 3:18-CV-226

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Casey A. Sullivan, Deputy Clerk  
504-310-7642

Ms. Jessica Michelle Manojlovich  
Ms. Karen S. Mitchell  
Mr. Tiwian Laquinn Skief

United States Court of Appeals  
for the Fifth Circuit

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No. 22-10315

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United States Court of Appeals  
Fifth Circuit

**FILED**

October 3, 2022

TIWIAN LAQUINN SKIEF,

Lyle W. Cayce  
Clerk

*Petitioner—Appellant,*

*versus*

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,  
Correctional Institutions Division,*

*Respondent—Appellee.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:18-CV-226

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Before CLEMENT, SOUTHWICK, and HIGGINSON, *Circuit Judges.*

PER CURIAM:

Tiwian Laquinn Skief, Texas prisoner # 1769917, moves this court for a certificate of appealability (COA) to appeal the denial of his Federal Rule of Civil Procedure 60(b) motion, arguing that the district court abused its discretion in denying that motion. Additionally, he seeks leave from this court to proceed in forma pauperis (IFP) on appeal.

In his Rule 60(b) motion, Skief requested that the district court reissue the judgment in his 28 U.S.C. § 2254 proceedings so that he could file a new notice of appeal after his original appeal was dismissed by this court for want

No. 22-10315

of prosecution. Because Skief's motion is an attempt to reinstate appellate jurisdiction through the Rule 60(b) proceedings, a COA is not necessary. *See Ochoa Canales v. Quarterman*, 507 F.3d 884, 888 (5th Cir. 2007); *Dunn v. Cockrell*, 302 F.3d 491, 492 & n.1 (5th Cir. 2002).

Turning to the merits of Skief's appeal, this court reviews the denial of a Rule 60(b) motion for abuse of discretion. *See Bailey v. Cain*, 609 F.2d 769, 767 (5th Cir. 2010). As the district court correctly concluded, a Rule 60(b) motion may not be used to circumvent the time limits for appeal, which are jurisdictional and for which there are no equitable exceptions. *See Bowles v. Russell*, 551 U.S. 205, 214 (2007); *see also Perez v. Stephens*, 745 F.3d 174, 178(5th Cir. 2014); 28 U.S.C. § 2107(a). And Skief's motion did not satisfy any of the grounds for an out-of-time appeal, as it was not filed within the period to seek an extension of time to appeal, nor was it based on lack of notice of entry of judgment. *See* § 2107(a); FED. R. APP. P. 4(a)(5), (6). The judgment of the district court is affirmed and the motion to proceed IFP correspondingly denied.

AFFIRMED; COA DENIED AS UNNECESSARY;  
MOTION TO PROCEED IFP DENIED.