

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 02-5147

September Term, 2002

01cv01586

Filed On: October 9, 2002 [706788]

Vincent Faustino Rivera,
Appellant

v.

United States of America, et al.,
Appellees

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BEFORE: Ginsburg, Chief Judge, and Edwards and Tatel, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by the appellant. The court has determined that the issues presented occasion no need for an opinion. See Fed. R. App. P. 36; D.C. Cir. Rule 36(b). It is

ORDERED AND ADJUDGED that the judgment of the district court be affirmed. The merits of the district court's September 24, 2001, order sua sponte dismissing appellant's complaint is not before this court, and the April 16, 2002, order denying the Rule 60(b) motion and the motion to renew the time for filing an appeal are reviewed for abuse of discretion. See Browder v. Director, Illinois Dep't of Corrections, 434 U.S. 257, 263 n.7 (1987). To the extent appellant argues that the district court abused its discretion in rejecting his theory of his case -- that is, because he was allowed to proceed in forma pauperis, his case automatically became an action for a constitutional tort -- his argument lacks merit. The district court did not abuse its discretion in denying his motion to renew the time for filing an appeal on untimeliness grounds. Appellant does not state that he failed to receive notice of the entry of judgment within 21 days after entry. See Fed. R. App. P. 4(a)(6).

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam