

April 21, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-30805  
Conference Calendar

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VERNON J. TATUM, JR.,

Plaintiff-Appellant,

versus

DALE N. ATKINS, Clerk of Civil District Court for the Parish of  
Orleans, State of Louisiana; UNIDENTIFIED PARTIES,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 02-CV-2401-S  
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Before JOLLY, JONES, and SMITH, Circuit Judges.

PER CURIAM:\*

Vernon J. Tatum, Jr. ("Tatum"), appeals the district court's grant of summary judgment to Dale N. Atkins ("Atkins"), the Clerk of the Civil District Court for Orleans Parish, Louisiana, in his civil action. Tatum argues that he was not properly served with Atkins' motion for summary judgment and the notice of a hearing on that motion because the motion and notice were "other process"

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that had to be served on him personally pursuant to FED. R. CIV. P. 4.1(a).

The relevant definition of "process" is "[a] summons or writ, esp. to appear or respond in court." Black's Law Dictionary, 1222 (7th ed. 1999). The motion and notice in this case were not process. See id. Rather, the motion and notice were a "written motion" and a "written notice" that were allowed to be served upon Tatum by mailing a copy to his last known address. See FED. R. CIV. P. 5(a) & (b)(2)(B). This appeal is frivolous and we dismiss it as such. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. Tatum is WARNED that sanctions may be imposed if he files frivolous appeals in the future.

APPEAL DISMISSED; SANCTION WARNING ISSUED.