

April 20, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-41628  
Conference Calendar

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ANTHONY LEON SUMMERS,

Plaintiff-Appellant,

versus

CHUCK BISCOE, Warden; BURNS, Warden; MIDER, Captain;  
STRUNK, Doctor; MAGRAM, Major,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. G-03-CV-493  
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Before JOLLY, JONES, and SMITH, Circuit Judges.

PER CURIAM:\*

Anthony Leon Summers, Texas prisoner # 1130913, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint for want of prosecution due to his failure to timely comply with the court's initial partial filing fee order. For the first time on appeal, Summers alleges that he attempted to comply with the district court's order but was unable to do so because prison officials did not timely respond to his request for assistance.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

This court will not consider factual allegations raised for the first time on appeal. See Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Accordingly, the judgment is AFFIRMED. All outstanding motions are DENIED.