

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

May 16, 2008

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No. 07-51405  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

DAVID DONALD DU VALL

Plaintiff - Appellant

v.

LOWES COMPANIES INC, a corporation; ROBERT A NIBLOCK, CEO,  
Chairman; DENNIS R KNOWLES, Store Operation, South Central;  
JEFF DIX, manager, Shoal Creek Warehouse; JOHN DOE I,  
assistant manager; CHRIS DOE II, subordinate employee; GARY  
HICKS, manager, Ranch Road Warehouse; JOHN DOE III, senior  
employee

Defendants - Appellees

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 1:07-CV-690

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Before JOLLY, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

For the reasons stated in the district court's order, we affirm the judgment that it lacked personal jurisdiction over Lowe's Companies, Inc. With respect to the argument that the district court should have granted Plaintiff an opportunity for discovery on the issue of personal jurisdiction, we deem that argument waived because Plaintiff never requested any such relief before the district court. See *Tex. Commercial Energy v. TXU Energy, Inc.*, 413 F.3d 503, 510 (5th Cir. 2005) (recognizing that arguments not raised before the district court are waived on appeal). Finally, with respect to the district court's orders dismissing the remaining defendants, we do not have appellate jurisdiction to review those orders because they were not included in the notice of appeal and, indeed, were issued after Plaintiff filed the instant notice of appeal. See *Pope v. MCI Telecomm. Corp.*, 937 F.2d 258, 266 (5th Cir. 1991).

AFFIRMED.