

August 19, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-11360  
Conference Calendar

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DANIEL OSTRANDER,

Plaintiff-Appellant,

versus

SETH BYRON DENNIS; FRANK POHLMEIER; KEITH PRICE,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:01-CV-367  
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Before JONES, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Daniel Glenn Ostrander, Texas prisoner # 428108, appeals from the district court's dismissal of his 42 U.S.C. § 1983 complaint for failure to comply with its briefing order.

Although the district court dismissed Ostrander's complaint without prejudice, that dismissal operates as one with prejudice, because the statute of limitations would bar re-prosecution of this lawsuit. See Owens v. Okure, 488 U.S. 235, 249-50 (1989); Flores v. Cameron County, Tex., 92 F.3d 258, 271 (5th Cir. 1996).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Ostrander contumaciously failed to comply with the briefing order, and the district court employed lesser sanctions before dismissing his complaint. See Long v. Simmons, 77 F.3d 878, 880 (5th Cir. 1996). The district court did not abuse its discretion.

AFFIRMED.