

April 22, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-41159
Conference Calendar

DAVID GREGORY SURASKY,

Plaintiff-Appellant,

versus

FOREST B. KELLY, Inmate Systems Manager; ERNEST V. CHANDLER,
Warden; RONALD THOMPSON, The South Central Regional Director of
the Bureau of Prisons,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:02-CV-347

Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

David Gregory Surasky, federal prisoner # 52646-080, appeals the district court's dismissal of his complaint for damages, brought pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), on the grounds that it was frivolous and for failure to state a claim upon which relief may be granted. Surasky argues that: (1) the district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court erred in dismissing his suit without giving him notice and an opportunity to amend his complaint and (2) he is entitled to judgment in his favor because the defendants failed to file a response denying the allegations made in his complaint.

Surasky's complaint was dismissed pursuant to 28 U.S.C. § 1915A. The statute contains no requirement for service on the defendants, nor for giving notice to the plaintiff of impending dismissal. See 28 U.S.C. § 1915A; see also Carr v. Dvorin, 171 F.3d 115, 116 (2d Cir. 1999); Martin v. Scott, 156 F.3d 578, 580 n.2 (5th Cir. 1998). Surasky's claim that he is entitled to judgment because the defendants failed to respond to his complaint is without merit given that: (1) the defendants were never served with process and (2) the district court properly concluded that the complaint was time-barred. Accordingly, the judgment of the district court is AFFIRMED.