

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-3722  
Conference Calendar

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ROBERT L. MARTIN, JR.,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CA-93-1174-J(3)

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(May 17, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Robert L. Martin, Jr., a resident of Terrebonne Parish who is represented by counsel, failed to mail copies of a Federal Tort Claims Act complaint and summons to the United States Attorney General within 120 days of filing his complaint, as required by Fed. Rs. Civ. P. 4(i)(1) (formerly 4(d)(4)) and 4(m) (formerly 4(j)). Service on the United States Attorney for the district in which the complaint is filed is also required. Fed. R. Civ. P. 4(i)(1). A failure of timely service results in dismissal without prejudice, except for good cause. Fed. R. Civ.

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

P. 4(m).

A district court enjoys broad discretion in determining whether to dismiss an action for failure of timely service. George v. United States Dep't of Labor, O.S.H.A., 788 F.2d 1115, 1116 (5th Cir. 1986). We review such a dismissal only for abuse of discretion. Systems Signs Supplies v. United States Dep't of Justice, 903 F.2d 1011, 1013 (5th Cir. 1990).

A letter that the United States Attorney wrote to Martin's counsel is not misleading, as he argues. It merely states that service upon the United States Attorney's designated person is "[a]mong the requirements" of Rule 4, without explaining other requirements.

The sum of counsel's argument is that he was not familiar with Rule 4(d)(4) (now Rule 4(i)(1)) and wants relief from the operation of Rule 4(j) (now Rule 4(m)) because of that lack of familiarity. Inadvertence, counsel's mistake, or ignorance of the rule, however, does not establish good cause. Systems Signs Supplies, 903 F.2d at 1013.

His argument that his failure is merely technical is unavailing. Whether the error was technical or not, good cause is the only exception to compliance with the rule. Winters v. Teledyne Movable Offshore, Inc., 776 F.2d 1304, 1306 (5th Cir. 1985). Likewise, the running of a limitations period does not bar a dismissal for failure of timely service. Id. at 1307. The dismissal was not an abuse of discretion.

AFFIRMED.