

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-11008  
Conference Calendar

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JOSEPH E. TUCKER,

Plaintiff-Appellant,

versus

ANN RICHARDS, Governor, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:94-CV-648-Y

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(January 25, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,  
Circuit Judges.

PER CURIAM:\*

A district court's dismissal based on failure to exhaust is reviewed for abuse of discretion. See Fuller v. Rich, 11 F.3d 61, 62 (5th Cir. 1994). A review of the record and of Joseph E. Tucker's appellate brief fails to disclose Tucker's exhaustion of his state remedies. See Picard v. Connor, 404 U.S. 270, 275, 92 S. Ct. 509, 30 L. Ed. 2d 438 (1971) (noting that exhaustion is satisfied "once the federal claim has been fairly presented to the state courts").

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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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Therefore, the district court did not abuse its discretion in basing its dismissal on Tucker's failure to demonstrate satisfaction of the exhaustion requirement. See Fuller, 11 F.3d at 62.

AFFIRMED.