

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40556
Conference Calendar

KEVIN C. MARBLES,

Plaintiff-Appellant,

versus

JIMMY ALFORD, Warden; ROBERT J.
PARKER, Warden; STEPHEN HAM, CO III;
BILLY HART, CO III; RANDY GRANT, CO
III; DOMINICO ODIKA, CO III,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:95-CV-35
- - - - -

August 23, 1995

Before KING, JOLLY, and WIENER, Circuit Judges.

PER CURIAM:*

Kevin C. Marbles appeals from the district court's dismissal without prejudice of his civil rights action for failure to prosecute. A district court may sua sponte dismiss an action for failure to prosecute or to comply with a court order. McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988). Such a dismissal is reviewed for an abuse of discretion. Id.

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

The two-year statute of limitations has not yet run on Marbles' claims. See Henson-El v. Rogers, 923 F.2d 51, 52 (5th Cir.), cert. denied, 501 U.S. 1235 (1991); Tex. Civ. Prac. & Rem. Code Ann. § 16.003 (West 1995). Because the dismissal by the district court was without prejudice and no statute of limitations bars the refiling of Marbles' claim, Marbles has not suffered prejudicial harm resulting from the dismissal. See McCullough, 835 F.2d at 1127. The district court thus did not abuse its discretion by dismissing Marbles' complaint without prejudice.

AFFIRMED.