

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 96-20126
Summary Calendar

DOV AVNI KAMINETZKY,

Plaintiff-Appellant,

versus

BUTLER & HAILEY;
TERRY H. SEARS;
ROY D. HAILEY,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-H-95-815

November 1, 1996

Before DAVIS, EMILIO M. GARZA and STEWART, Circuit Judges.

PER CURIAM:*

Dov Avni Kaminetzky has appealed the summary judgment for the defendants in his action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. We AFFIRM.

Assuming arguendo that the district court did not provide adequate notice under Fed. R. Civ. P. 56(c), it was harmless error because Kaminetzky has not shown that any issue of fact

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

precluded the granting of summary judgment. See RTC v. Sharif-Munir-Davidson Dev. Corp., 992 F.2d 1398, 1403 (5th Cir. 1993) (harmless error); Little v. Liquid Air Corp., 37 F.3d 1069, 1075-76 (5th Cir. 1994) (en banc) (inadequate showing by the nonmovant).

This court will not review the district court's award of attorney fees to the appellees, because Kaminetzky has not briefed the issue. See Weaver v. Puckett, 896 F.2d 126, 128 (5th Cir.), cert. denied, 498 U.S. 966 (1990). Furthermore, Kaminetzky is not entitled to relief on grounds that the district judge should have recused himself sua sponte, because there was no plain error. See Robertson v. Plano City of Texas, 70 F.3d 21, 23 (5th Cir. 1995).

IT IS FURTHER ORDERED that Kaminetzky's request that certain exhibits be filed with the appellate record is DENIED as moot.

IT IS FURTHER ORDERED that appellees' application for sanctions is DENIED, for failure to comply with Fed. R. App. P. 38 by filing a separate motion.

MOTIONS DENIED; JUDGMENT AFFIRMED.