

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-40041  
Summary Calendar

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PHILLIP CHARLES MELONCON,

Plaintiff-Appellant,

versus

RICKY BLACKBURN, In his Official Capacity as  
Chief Sheriff, Morris County, TX,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 2:95-CV-73  
- - - - -

August 26, 1996

Before SMITH, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Ricky Charles Meloncon appeals the district court's order granting the motion for summary judgment filed by the defendant, Ricky Blackburn. Based upon a careful review of the record and the briefs, we hold, for reasons expressed by the district court, that the district court did not err in entering summary judgment for Blackburn. In light of this holding, we need not consider whether the district court abused its discretion in dismissing

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

the complaint for failure to prosecute.

AFFIRMED.