

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-11221  
Summary Calendar

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JOHNNY SPENCER,

Plaintiff-Appellant,

versus

ADVANCED TELEMARKETING CORP.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:97-CV-1225-G

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June 26, 1998

Before HIGGINBOTHAM, DAVIS and DeMOSS, Circuit Judges.

PER CURIAM:\*

Johnny Spencer appeals the dismissal without prejudice of his age and disability discrimination action for failure to prosecute pursuant to Fed. R. Civ. P. Rule 41(b).

The evidence on record shows that Spencer did not comply with the magistrate judge's orders requiring him to notify the court of any address change. As a result, the district court

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\* Pursuant to 5<sup>TH</sup> CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>TH</sup> CIR. R. 47.5.4.

could not schedule a hearing to inquire into the factual and legal basis for his claim, in accordance with Spears v. McCotter, 766 F.2d 179, 181-82 (5th Cir. 1985) (establishing courtroom hearing as substitute for motion for more definite statement in *pro se* cases), overruled on other grounds sub nom. Neitzke v. Williams, 490 U.S. 319, 324 (1989).

AFFIRMED.