

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-40798  
Conference Calendar

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LANEY J. HARRIS,

Plaintiff-Appellant,

versus

TOGO D. WEST, JR.,  
Secretary, Department of the Army,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 5:94-CV-58  
- - - - -

February 11, 1998

Before SMITH, EMILIO M. GARZA, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Laney J. Harris appeals from the district court's dismissal of his civil rights action for failure to effect timely service of process. He contends that he has shown good cause for his failure to timely serve the defendant because there was allegedly no one in the clerk's office during his many visits there. We have reviewed the record and find no reversible error. Accordingly, the judgment is AFFIRMED for essentially the reasons

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

stated by the district court. See Harris v. West, No. 5:94cv58 (E.D. Tex. June 24, 1997).

The district court's judgment does not specify whether the dismissal of Harris's civil rights action was with or without prejudice. The district court's dismissal therefore operated as an adjudication on the merits. See Hilliard v. Board of Pardons & Paroles, 759 F.2d 1190, 1193 (5th Cir. 1985). Accordingly, the judgment of the district court is MODIFIED to reflect that the dismissal is without prejudice. See Fed. R. Civ. P. 4(m).

AFFIRMED; JUDGMENT MODIFIED.