

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-10271
Summary Calendar

CARLOS M. RODRIGUEZ,

Plaintiff-Appellant,

DAVID L. SMITH,

Appellant,

VERSUS

WALKER PATTERN & MOLD, INC.; RONALD P. VECCHIO,

Defendants-Appellees.

Appeal from the United States District Court
For the Northern District of Texas

(4:00-CV-8024)

December 6, 2001

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

PER CURIAM:*

Carlos M. Rodriguez and David L. Smith appeal the district court's order dismissing Rodriguez's personal injury suit. We affirm.

On December 20, 2000, the district court removed Smith, then Rodriguez's attorney of record, from the suit because Smith had

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

been disbarred from the practice of law in the Northern District of Texas on November 21, 2000. The district court ordered Rodriguez to notify the court no later than January 19, 2001, of his intention to proceed *pro se* or to obtain new counsel. On January 23, 2001, the district court, having received no notice from Rodriguez,¹ dismissed the suit for lack of prosecution.

The district court did not abuse its discretion in dismissing Rodriguez's suit without prejudice for want of prosecution. *Berry v. Cigna/RSI-Cigna*, 975 F.2d 1188, 1190-91 (5th Cir. 1992). Appellants' remaining arguments, that the district court erred in temporarily staying the suit and in removing Smith as counsel of record after disbarment - are without merit.

AFFIRMED.

¹Smith included in the record excerpts a photocopy of an "Affidavit of Carlos M. Rodriguez" stating that Rodriguez is unable to hire new counsel or to proceed *pro se*. A hand-written notation on the face of the affidavit states, "Filed January 26, 2001." The affidavit, which was not filed in the district court, is not part of the record on appeal.