

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-21120
Summary Calendar

RUDOLFO B. MARTINEZ,

Plaintiff-Appellant,

versus

GARY L. JOHNSON, DIRECTOR, TEXAS DEPARTMENT OF
CRIMINAL JUSTICE, INSTITUTIONAL DIVISION; G. ADAMS;
R. SEWARD; C. LUERAR, sued in their individual and
official capacities

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CV-3757

January 31, 2003

Before BARKSDALE, DEMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Rudolfo B. Martinez, Texas prisoner no. 340699, appeals the district court's dismissal of his 42 U.S.C. § 1983 action for failure to comply with court orders to amend his complaint. Martinez alleged cruel and unusual punishment in the form of deprivation of adequate medical care.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The district court properly dismissed some of the original named defendants with prejudice on grounds of untimeliness. The remaining defendants were properly dismissed with prejudice for Martinez's failure to allege a cause of action against them in their supervisory capacity. See Thompkins v. Belt, 828 F.2d 298, 303 (5th Cir. 1987).

Martinez arguably has waived, by lack of briefing, appeal of the dismissal for failure to comply with court orders to amend the complaint to name specific individuals who may have deprived him of his right to adequate medical care by denying him a proper leg brace. See United States v. Reyes, 300 F.3d 555, 558 n.2 (5th Cir. 2002) (failure to provide legal or factual analysis of issue results in its waiver). In any event, the district court did not abuse its discretion by dismissing his complaint without prejudice for failure to comply with the court's two orders. See McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988); McNeal v. Papasan, 842 F.2d 787, 789-90 (5th Cir. 1988). Moreover, Martinez's failure to name specific defendants in compliance with the court's order assured that he did not state a cause of action against any defendant. The judgment of the district court is AFFIRMED.

Martinez has moved for appointment of counsel, production of records and transcripts that appear already to have been produced as the record on appeal, and for leave to proceed in forma

pauperis, which status has already been granted by the district court. These motions are DENIED.

JUDGMENT AFFIRMED; ALL MOTIONS DENIED.