

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

November 19, 2021

Lyle W. Cayce
Clerk

No. 20-20279
Summary Calendar

CHRISTOPHER DALE HARVEY,

Plaintiff—Appellant,

versus

GREG ABBOTT, *Attorney General, State of Texas*; DAN PATRICK,
Lieutenant Governor of Texas; BRYAN COLLIER, *Executive Director of the*
Texas Department of Criminal Justice,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:19-CV-4787

Before SMITH, STEWART, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Christopher Dale Harvey, Texas prisoner # 1925365, appeals from the district court's dismissal without prejudice of his 42 U.S.C. § 1983 complaint for lack of subject matter jurisdiction. In his complaint, Harvey challenged

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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the constitutionality of Texas Government Code § 508.149(b) and (d), which relate to an inmate's release on mandatory supervision. The district court granted the defendants' motion to dismiss under Federal Rule of Civil Procedure 12(b)(1) because Harvey failed to establish that he had met the time qualification requirement for eligibility for mandatory supervision pursuant to Texas Government Code § 508.147(a).

We review the district court's dismissal de novo. *See Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2001). Harvey conceded that he did not meet the time qualification requirement for mandatory supervision under § 508.147(a) at the time he filed his lawsuit. Although he alleges that he met the time qualification requirement during the pendency of this appeal, standing is assessed at the time the lawsuit is filed. *See Carney v. Adams*, 141 S. Ct. 493, 499 (2020). Because the district court correctly dismissed Harvey's lawsuit without prejudice on this basis, we AFFIRM the district court's judgment. In light of that conclusion, we DENY Harvey's motions for appointment of counsel, for extraordinary relief, and to expedite this appeal.