

February 23, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-11315  
Conference Calendar

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MARVIN ROBERTS,

Plaintiff-Appellant,

versus

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Dallas District  
Office,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:04-CV-344-G  
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Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Marvin Roberts appeals from the dismissal without prejudice of his civil action for failure to effectuate service within 120 days of filing his complaint. Roberts moves to supplement the record; his motion to supplement is DENIED. Roberts also moves for leave to appear for oral argument; that motion too is DENIED.

The record does not indicate that Roberts complied with the requirements of FED. R. CIV. P. 4 for the service of summons and proof of service, despite having been put on notice that his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

attempts to comply were deficient and having been given two opportunities to comply. The dismissal of Roberts's complaint without prejudice was not an abuse of discretion. See Lindsey v. United States R.R. Retirement Bd., 101 F.3d 444, 445 (5th Cir. 1996).

AFFIRMED.