

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40893
Summary Calendar

JOE RICHARD RANDLE, JR.,

Plaintiff-Appellant,

versus

SALLY CANNON, CO. III, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:94-CV-525
- - - - -
February 23, 1996

Before JOLLY, JONES and STEWART, Circuit Judges.

PER CURIAM:*

Joe Richard Randle, Jr., appeals the district court's dismissal of his complaint under 42 U.S.C. § 1983. The district court dismissed his action for failure to prosecute under Fed. R. Civ. P. 41(b). This dismissal was an abuse of discretion as Randle had not engaged in any delay or contumacious conduct. McNeal v. Papasan, 842 F.2d 787, 790 (5th Cir. 1988).

Accordingly, the dismissal is VACATED and the case REMANDED to the district court for further proceedings.

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.