

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-30080  
Summary Calendar

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ADAM SMITH,

Plaintiff-Appellant,

versus

DAVID BONNETTE, Assistant Warden, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. 96-CV-7441-A-1  
- - - - -

July 30, 1997

Before DUHE', DeMOSS and DENNIS, Circuit Judges.

PER CURIAM:\*

Adam Smith, Louisiana inmate #70741, appeals the dismissal, without prejudice, of his civil rights complaint for failure to comply with the order requiring him to pay the \$120 filing fee.

Smith contends that he complied with the order and paid the filing fee. The docket sheet confirms that Smith paid the fee. However, the court had no knowledge of Smith's compliance because the docket entry was not made until several weeks later. In

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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light of Smith's payment of the filing fee, it was an abuse of

discretion for the court to dismiss the complaint. JUDGMENT is hereby VACATED, and the case is REMANDED for further proceedings.

VACATE AND REMAND.