

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 99-50741
Summary Calendar

MARY ELLEN SHIFLETT,

Plaintiff-Appellant,

versus

LONE STAR BREWING COMPANY, INC.,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
(SA-98-CA-0414-OG)

February 1, 2000

Before POLITZ, WIENER and BENAVIDES, Circuit Judges.

PER CURIAM:*

Mary Ellen Shiflett appeals the dismissal of her tort action against Lone Star Brewing Company, Inc. For the reasons assigned, we affirm.

Shiflett's complaint alleges that she was injured on Lone Star's property on May 11, 1996. Her personal injury action, subject to a two-year statute of limitations under Texas law, was filed on May 11, 1998, the very last day before limitations accrued. The federal rules require service of process within 120 days. Notwithstanding, it was not until 304 days after the action was filed, and after the court ordered same, that summons was requested by Shiflett and issued by the clerk. Even then, no valid service was duly effected and, in response to a motion

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

to dismiss and/or for summary judgment, the court dismissed the matter with prejudice.

Shiflett has demonstrated neither a legal nor factual basis for reversing the judgment of the district court. Accordingly, on the facts as recited, authorities cited, and reasons assigned by the district court in its Order signed, entered, and filed on March 5, 1999, and its Order signed, entered, and filed on May 10, 1999, and its Order signed and entered June 24, 1999 and filed June 28, 1999, the judgment appealed is AFFIRMED.