

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

United States Court of Appeals  
Fifth Circuit

**FILED**

April 29, 2010

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 09-40983

Summary Calendar  
\_\_\_\_\_

CORNELIUS JOSEPH MCCAUSTLE,

Plaintiff-Appellant

v.

NORTH TEXAS MEDICAL HOSPITAL,

Defendant-Appellee

\_\_\_\_\_  
Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:09-CV-277  
\_\_\_\_\_

Before REAVLEY, DAVIS, and HAYNES, Circuit Judges.

PER CURIAM:\*

Cornelius Joseph McCastle, Arkansas prisoner # 143801 and former Texas prisoner, proceeding pro se and in forma pauperis, appeals from the district court's dismissal without prejudice of this 42 U.S.C. § 1983 complaint. The district court ordered McCastle to pay an initial partial filing fee of \$0.17. When McCastle did not pay the fee within the specified time, the district court, pursuant to FED. R. CIV. P. 41(b), dismissed his complaint for failure to prosecute and failure to obey a court order.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

McCastle has not provided, in this court or in the district court, the reason for his nonpayment of the partial filing fee. Nor has he indicated that he has or will pay the partial filing fee. McCastle has therefore waived the issue presented by this appeal. *See Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir. 1993); *see also, Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

AFFIRMED.