

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

United States Court of Appeals
Fifth Circuit

F I L E D
March 18, 2010

No. 09-50638
Summary Calendar

Charles R. Fulbruge III
Clerk

United States of America, ex rel, WILLIAM D. ELLARD

Plaintiff - Appellant

v.

MEDTRONIC INC; AUSTIN HEART, P.A.; DAUGHTERS OF CHARITY
HEALTH SERVICES OF AUSTIN, doing business as Seton Hospital; HEART
HOSPITAL IV, LP, doing business as Heart Hospital of Austin,

Defendants - Appellees

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:08-CV-637

Before JOLLY, WIENER, and ELROD, Circuit Judges.

PER CURIAM:*

Plaintiff-Appellant William D. Ellard (“Ellard”) appeals the district court’s dismissal of his False Claims Act (“FCA”) suit against Defendants-Appellees Medtronic, Inc., Austin Heart, P.A., Daughters of Charity Health Services of Austin, and Heart Hospital IV, LP. After reciting Ellard’s numerous failures to

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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comply with the FCA's statutory filing requirements, the district court dismissed Ellard's suit with prejudice, concluding that he had "incurably frustrated" the statutory goals of the FCA by, *inter alia*, failing to file under seal and failing to serve the government with a copy of the complaint before notifying the defendants. For essentially the same reasons advanced by the district court, we affirm.