

February 7, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-41398

MALVIN MILLS, Etc; ET AL

Plaintiffs,

MALVIN MILLS, doing business as
Pronto Bail Out; ANGELO L. CLARK,
doing business as Angelo's Bonding
Service; TERRY HENSON, doing business
as Henson's Bail Bond, doing business
as Terry's Quick Bail Out,

Plaintiffs-Appellants,

versus

SMITH COUNTY TEXAS; BILLY WAYNE BOBBITT,
doing business as Strike Three Bail
Bonding Company, doing business as
Easy Out Bail Bonding Company; J B SMITH,
Individually and in official capacity
as Sheriff of Smith County, Texas; BOBBIE
GARMON, Individually and in official
capacity as Deputy Sheriff of Smith County,
Texas; FAR WEST INSURANCE COMPANY,
DOES 1-100, Inclusive;

Defendants-Appellees.

Appeals from the United States District Court
for the Eastern District of Texas
(03-CV-169)

Before GARWOOD, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Appellants complain of two evidentiary rulings of the district court. It is plain that neither ruling presents an abuse of the district court's discretion, and in any event it is likewise plain that even if there were error, neither ruling was prejudicial. With respect to appellants' complaints as to the district court's taxation of costs of the expert fees for witness Needham and expert Bailes & Co. , appellees for whom these costs were taxed voluntarily remitted them by March 30, 2004, filing in the district court; with respect to the \$120 videotaping charge, appellees in their brief have agreed to remit that item of costs. Accordingly, the judgment of the district court is AFFIRMED except that the award of costs is MODIFIED in accordance with the said March 30, 2004 remittitur filed by the Smith County defendants in the district court, and with the further modification that the \$120 charge for deposition videotaping is eliminated.

Costs under FED. R. APP. P. 39 are taxed against appellants.

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 R. 47.5 the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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