

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-4339
Conference Calendar

GLEN T. HAMPTON,

Plaintiff-Appellant,

versus

DON HATHAWAY ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. CA-91-1168
- - - - -

June 23, 1993

Before POLITZ, Chief Judge, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:*

A criminal prosecutor is immune from civil suit for damages under 42 U.S.C. § 1983 in initiating a prosecution and in presenting the state's case. Imbler v. Pachtman, 424 U.S. 409, 431, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976); Young v. Biggers, 938 F.2d 565, 569 (5th Cir. 1991). Hampton's claims against Carmouche are based on his actions as District Attorney of Caddo Parish in prosecuting Hampton for attempted manslaughter. Hampton does not allege any facts which would suggest that Carmouche acted outside of the scope of his prosecutorial duties.

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

He does appear to allege that Carmouche relied on false testimony. However, a prosecutor is immune even if he is accused of knowingly using perjured testimony. Henzel v. Gerstein, 608 F.2d 654, 657 (5th Cir. 1979).

Hampton's claims against Sheriff Hathaway were also properly dismissed. To hold a sheriff liable under § 1983, he "must be either personally involved in the acts causing the deprivation of a person's constitutional rights, or there must be a causal connection between an act of the sheriff and the constitutional violation sought to be redressed." Lozano v. Smith, 718 F.2d 756, 768 (5th Cir. 1983). A sheriff is not liable for the actions of his subordinates on any theory of vicarious liability. Id. Hampton fails to allege facts indicating that Hathaway's personal conduct caused a constitutional violation and fails to show a basis for supervisory liability. See Thompkins v. Belt, 828 F.2d 298, 304 (5th Cir. 1987).

To the extent he alleges that Carmouche and Hathaway conspired to violate his constitutional rights, Hampton's conclusional allegations, even under a relaxed pleading standard, are insufficient to state a claim under § 1983.

Finally, the Eleventh Amendment bars Hampton's claims against the State of Louisiana under § 1983. Farias v. Bexar County Bd. of Trustees, 925 F.2d 866, 875 n.9 (5th Cir.), cert. denied, 112 S.Ct. 193 (1991). Accordingly, the district court did not abuse its discretion in dismissing Hampton's claims as frivolous because they have no arguable basis in law. 28 U.S.C. § 1915(d).

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AFFIRMED