

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-8384  
Summary Calendar

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MARTIN DELANEY LAZARUS,

Plaintiff-Appellant,

versus

JACK HARWELL, Sheriff,  
McLennan County, Et. Al.,

Defendants-Appellees.

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Appeal from the United States District Court for the  
Western District of Texas  
(W-91-CV-198)

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(October 21, 1994)

Before GARWOOD, HIGGINBOTHAM and DAVIS, Circuit Judges.\*

PER CURIAM:

In this suit under 42 U.S.C. § 1983 complaining of certain matters occurring while plaintiff-appellant was confined in the McLennan County, Texas, jail, the Court has been informed that the sole plaintiff-appellant, Martin DeLaney Lazarus (Lazarus), a

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

prisoner in the Texas Department of Corrections (TDC), died on April 9, 1994, during the pendency of this appeal and while confined at TDC. The Court has been furnished a copy of the State of Texas Certificate of Death respecting Lazarus, and has endeavored to ascertain whether any administration has been taken out on his estate and the name and address of his next of kin. Lazarus has appeared *pro se* throughout these proceedings. So far as we have been able to ascertain, no administration has been taken out on his estate. Lazarus was apparently unmarried at the time of his death. The only next of kin whose address or city of residence we have been furnished, are his mother, Mrs. Yulee Lazarus, 1001 Mar Walt #111, Fort Walton Beach, Florida 32547 and his sister, Mrs. Susan Lazarus Cameron, 4611 Ridgecliff Drive, Brandon, Florida 33511. At the direction of the Court, the clerk wrote these individuals advising them of the instant appeal and of Lazarus's death and requesting that each inform the Court in writing within thirty days whether there was an intention to have a representative continue his appeal and that if there was not, or if no response had been received within thirty days, the appeal would be subject to dismissal. We have heard nothing from Mrs. Lazarus or Mrs. Cameron or from anyone else indicating any desire that this appeal be further prosecuted. The Court concludes that its efforts have been reasonable under the circumstances.

In light of the foregoing, and pursuant to FEDERAL RULE OF APPELLATE PROCEDURE 43(a) and *Gamble v. Thomas*, 655 F.2d 568 (5th Cir.

1981), the appeal is DISMISSED.<sup>1</sup>

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<sup>1</sup> The clerk shall notify all parties and Mrs. Lazarus and Mrs. Cameron of this action.