

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-8414
Conference Calendar

DAVID M. SMOTHERMAN ET AL.,
Plaintiffs,
DAVID M. SMOTHERMAN,
Plaintiff-Appellant,
versus
PAUL HASTINGS, Sheriff, ET AL.,
Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. A-91-CA-618
- - - - -

May 6, 1993
Before POLITZ, Chief Judge,
HIGGINBOTHAM, and DEMOSS, Circuit Judges.

PER CURIAM:*

This Court must examine the basis of its jurisdiction on its own motion if necessary. Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). In this civil rights case proceeding before the magistrate judge by consent, David M. Smotherman has filed a notice of appeal from the order entered on 25 June 1992. Nevertheless, the claims by co-plaintiff Juan N. Sanchez have not been decided. When an action involves multiple parties, any

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

decision that adjudicates the liability of fewer than all of the parties does not terminate the litigation and is therefore not appealable unless certified by the district court under FED. R. CIV. P. 54(b). See Thompson v. Betts, 754 F.2d 1243, 1245 (5th Cir. 1985). The district court has not certified the order for appeal. Accordingly, this case is DISMISSED as lacking jurisdiction.