

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-1808  
Summary Calendar

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GERARD HENNESSEY,  
Plaintiff-Appellant,

VERSUS

L. J. BLALACK, ET AL.,  
Defendants,

JULIE MARTIN, ET AL.,  
Defendants-Appellees.

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GERARD HENNESSEY,  
Plaintiff-Appellant,

VERSUS

JULIE MARTIN, ET AL.,  
Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
(5:93-CV-78-C and 5:93-CV-221-C)

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No. 93-1809  
Summary Calendar

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GERARD HENNESSEY,

Plaintiff-Appellant,

VERSUS

L. J. BLALACK, ET AL.,

Defendants,

JOHN NEAL, ET AL.,

Defendants-Appellees.

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GERARD HENNESSEY,

Plaintiff-Appellant,

VERSUS

JOHN NEAL, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
(5:93-CV-78-C and 5:93-CV-226-C)

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No. 93-1835  
Summary Calendar

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GERARD HENNESSEY,

Plaintiff-Appellant,

VERSUS

L. J. BLALACK, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
(5:93-CV-78-C)

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Nos. 93-9009, 93-9010  
93-9011 and 93-9012  
Summary Calendar

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GERARD HENNESSEY,

Plaintiff-Appellant,

LINDA ANN VEGA,

Appellant,

VERSUS

L. J. BLALACK, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
(5:93-CV-78-C)

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No. 93-9013  
Summary Calendar

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GERARD HENNESSEY,  
Plaintiff-Appellant,

LINDA ANN VEGA,  
Appellant,

VERSUS

L. J. BLALACK, ET AL.,  
Defendants

ROBERT FLOWERS,  
Defendant-Appellee.

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GERARD HENNESSEY,  
Plaintiff-Appellant,

VERSUS

ROBERT FLOWERS,  
Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
(5:93-CV-78-C & 5:93-CV-240-C)

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No. 93-9092  
Summary Calendar

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GERARD HENNESSEY,

Plaintiff-Appellant,

LINDA ANN VEGA,

Appellant,

VERSUS

L. J. BLALACK, ET AL.,

Defendants

JULIE MARTIN, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
(5:93-CV-78-C)

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Nos. 93-9015, 93-9123  
and 94-10084  
Summary Calendar

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GERARD HENNESSEY,

Plaintiff-Appellant,

LINDA ANN VEGA,

Appellant,

VERSUS

L. J. BLALACK, ET AL.,

Defendants

MELISSA MARTIN,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
(5:93-CV-78-C)

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No. 93-10035  
Summary Calendar

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GERARD HENNESSEY,

Plaintiff-Appellant,

VERSUS

MELISSA MARTIN,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
(5:93-CV-0305-C)

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No. 93-10370  
Summary Calendar

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GERARD HENNESSEY,

Plaintiff-Appellant,

LINDA ANN VEGA,

Appellant,

VERSUS

L. J. BLALACK, ET AL.,

Defendants,

ROSEMARY CHIVERS,

Defendant-Appellee.

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GERALD HENNESSEY,

Plaintiff-Appellant,

VERSUS

ROSEMARY CHIVERS,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
(5:93-CV-78-C & 5:93-CV-330-C)

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(August 30, 1994)

Before DAVIS, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:<sup>1</sup>

Gerard Hennessey, *pro se*, presents a flurry of appeals from interlocutory orders.<sup>2</sup> We **AFFIRM**.

I.

Hennessey sought access to complaints filed before Justice of the Peace Blalack by a local attorney (Nelson) on behalf of one of Nelson's clients. According to Hennessey, Melissa Martin, a clerk in Blalack's office, refused him access to the files; she informed him that he would have to ask Judge Blalack for them; Hennessey went to speak to Blalack in the courtroom about the files; and an

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<sup>1</sup> 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.

<sup>2</sup> Hennessey's motion to file his reply brief out of time is **GRANTED**.

incident took place, with Blalack instructing the bailiff to arrest him for contempt. Hennessey alleged that Blalack later released him, and instructed his clerks to prepare affidavits stating that Hennessey had been loud and abusive.

Several clerks later gave statements to law enforcement officers in which they stated that Blalack "coached" their affidavits. In connection with the incident, Blalack was indicted for aggravated perjury and false arrest; Martin, for perjury.

Hennessey filed a § 1983 action against Blalack, Martin, Nelson, and others. He alleged, *inter alia*: that Blalack, Martin, and the other clerks conspired to deprive him of his constitutional rights; that other Lubbock County and Texas officials conspired to prevent successful prosecution of a petition by Hennessey to remove Blalack from office; and that Lubbock County officials were operating a corrupt system whereby excessive fines were funnelled to them in violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §§ 1961-1968 (RICO).

## II.

The appeals before us are from various interlocutory orders. But, we have jurisdiction, because the litigation has ended.<sup>3</sup> See ***Riley v. Wooten***, 999 F.2d 802, 804-05 (5th Cir. 1993) (once litigation has ended, court possesses jurisdiction to entertain

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<sup>3</sup> After these appeals were filed and briefed, summary judgments were granted Blalack and Nelson. Later, after a jury awarded Hennessey \$10,000 against another Lubbock County Judge and Lubbock County, the County was granted judgment as a matter of law. Hennessey has also appealed these matters, but those appeals were not consolidated with the appeals before us.

appeals from previously non-final orders); **Alcorn County, Miss. v. U.S. Interstate Supplies, Inc.**, 731 F.2d 1160, 1165-66 (5th Cir. 1984) (same).

A.

None of Hennessey's assignments of error justifies reversal. The district court properly granted summary judgment and/or dismissed the claims made against the court clerks: Martin was entitled to quasi-judicial immunity for aiding in Hennessey's arrest (at Judge Blalack's request); she was entitled to qualified immunity for her perjury -- no clearly established constitutional right was violated; and the remainder of Hennessey's claims against Martin and the other clerks were properly subject to dismissal for failure to state a claim (injury to reputation *alone* does not implicate the Fourteenth Amendment; use or encouragement of perjured testimony may violate constitutional rights if committed in an attempt to facilitate an adjudication of guilt, which did not occur by the clerks' efforts to protect Blalack from the judicial inquiry; and Hennessey did not plead purposeful discrimination for his equal protection claim).

The district court also properly refused to allow joinder of Hennessey's claims with that by Linda Ann Vega; her claim concerned alleged excessive fines for citizens whose children were truant. Obviously, that claim bore no relationship to Hennessey's; and, in any event, Vega's claim may well have been time-barred. Nor did the district court err in refusing to certify a class action. Hennessey's claim was atypical because it did not involve either

truancy or excessive fines; moreover, the district court did not abuse its discretion in finding that Hennessey, proceeding *pro se*, could not adequately represent the class.

Because the claims pertaining to the alleged excessive fines for truancy were not before the court, the factual predicate for the RICO claim was absent (Hennessey makes no allegation of injury as to him, which of course must exist to have standing to bring a RICO claim. ***National Org. for Women, Inc. v. Scheidler***, \_\_\_ U.S. \_\_\_, 114 S. Ct. 798, 802-03 (1994).)

The claims against Neal and Greenhouse were properly dismissed; any alleged inadequacy in their investigation of Judge Blalack cannot be said to have deprived Hennessey of any constitutional right. The same can be said of Hennessey's claim against Robert Flowers, the Executive Director of the State Commission on Judicial Conduct. And, in any event, Hennessey did not plead facts from which a conspiracy could be inferred with respect to Flowers.

Hennessey's remaining assertions fail to raise an issue; he does not make reference to any legal argument or authority, and it appears that those remaining claims pertained to the claims of alleged excessive fines in truancy cases, which were not before the district court.

B.

One of Hennessey's claims requires more discussion, if only because of its nature. He asserts that the district judge erred in denying a motion to disqualify. Hennessey contends that, because

the district judge's brother served as a trustee for the Lubbock County School District, the judge's brother had an interest in the outcome of the action. According to Hennessey, Blalack and school district officials entered into a "cynical connivance" to extract excessive fines from poor parents of truants. Also, Hennessey urges that Vega was subjected to unconstitutional acts by a school district employee.

Among other grounds, disqualification is required where a person within the third degree of relationship to the judge is known by the judge to have an interest in the outcome of the proceeding. 28 U.S.C. § 455(b)(5)(iii). That is not the case here. Hennessey's claims had no possible relation to the school district. And, as noted, Vega's claims, which perhaps related to the school district, were not before the court -- it had denied joinder/intervention before the motion to disqualify was filed. This assignment of error is frivolous.

### III.

For the foregoing reasons, the orders of the district court are

**AFFIRMED.**