

UNITED STATES COURT OF APPEALS  
for the Fifth Circuit

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No. 93-2095  
Summary Calendar

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RICHARD EARL THOMAS,

Plaintiff-Appellant,

VERSUS

D.S. NULL, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
(CA H 91 2003)

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(November 17, 1994)

Before DUHÉ, WIENER, and STEWART, Circuit Judges.

PER CURIAM:<sup>1</sup>

Appellant Thomas, an inmate of the Texas prison system, brought this § 1983 suit alleging the use of excessive force at the time of his arrest by a Houston city police officer and that the City of Houston maintained a policy or custom which contributed to the officer's conduct. His request for court-appointed counsel was denied and he appealed. We remanded the case with instructions to the district court to make findings and give reasons for its

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

denial. The district court has now done so and Appellant again appeals. We find no abuse of discretion and affirm.

Upon remand, the district court considered, albeit in a somewhat conclusive fashion, all of the issues Ulmer v. Chancellor, 691 F.2d 209, 213 (5th Cir. 1982), directs should be considered. It concluded that the case was not complex, the Appellant appeared capable of adequately presenting his case, no particular skill would be required in the trial since only credibility determinations would have to be made and, although Appellant is incarcerated, adequate discovery devices are available and he has in fact used them. Our review indicates that these findings are fully supported by the record. We find no abuse of discretion. Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986). Lack of counsel may hinder Appellant's pursuit of his civil claim but the law is clear: the district court shall appoint counsel only in exceptional circumstances. Absent those circumstances the discretion rests entirely with that court.

AFFIRMED.