

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-8061

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RAFAEL RAMIREZ,

Plaintiff-Appellant,

versus

CITY OF SAN ANTONIO, ET AL.,

Defendants,

CITY OF SAN ANTONIO and  
CHIEF WILLIAM O. GIBSON,

Defendants-Appellees.

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Appeal from the United States District Court for  
the Western District of Texas  
(SA-92-CV-690)

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(April 20, 1994)

Before REAVLEY, and JOLLY, Circuit Judges, and PARKER\*, District  
Judge.

PER CURIAM:\*\*

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\* Chief Judge of the Eastern District of Texas, sitting by  
designation.

\*\* 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that this opinion should not be published.

The removal and denial of remand give Ramirez no ground for reversal. Within the allowable time all defendants joined in the removal petition. The City of San Antonio filed the initial notice. There was no separate joinder by the "San Antonio Police Department," but there was no need for it because the police department is not an entity separate from the City. The failure of Bexar County to file a notice in state court was of no effect.

The court acted within its discretion by setting aside the default judgment under Rule 60(b)(1) on grounds that the state court's entry of the judgment was the result of inadvertence.

The district court dismissed Ramirez' claims on limitations grounds, mistakenly thinking that the original petition was filed on June 23, 1992 instead of the actual date of filing on May 26. Nevertheless, the City officers were not made parties until October 9, 1992, when those claims were barred.

We find no claim alleged against the Sheriff or District Attorney of Bexar County. Dismissal on the pleading as against them was proper.

However, a claim is stated against the City of San Antonio. In the First Amended Complaint, Ramirez alleges that his two month confinement in the jail without cause or charge was due to the misuse of arresting power, to officers falsely imprisoning people and refusing to take corrective action, and to systematically abusing the rights of prisoners by illegally detaining them. Ramirez alleges that the police chief and city council itself were aware of the abuses and that the chief

"ratified, approved, condoned, or otherwise authorized" the conduct.

It is further alleged that the police have acquired a notorious reputation as systematically arresting citizens "on false and malicious charges knowing the same to be untrue which utilizes the Police Department as a means of enhancing the revenues of the City of San Antonio to the extent that the Defendant City, acting through its mayor and City Council, impliedly or actually encouraged the commission of acts of misconduct on the part of its police officers."

The judgment is affirmed as to all parties except the City of San Antonio. As to the City, the judgment is reversed and the cause is remanded for further proceedings.

AFFIRMED IN PART; REVERSED IN PART AND REMANDED.