

UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 94-10629
Summary Calendar

GERARD HENNESSEY, Plaintiff-Appellant,

LINDA ANN VEGA, Appellant,

VERSUS

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

DON MCBEATH AND LUBBOCK COUNTY, TX.,
Defendants-Appellees.

Appeals from the United States District Court
for the Northern District of Texas
(5:93-CV-078-C)

(June 23, 1995)

Before GARWOOD, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:¹

Hennessey appeals the district court's order granting the defendants' Rule 50 motions for judgment as a matter of law. The court's order followed a jury verdict in favor of Hennessey on his pro se § 1983 complaint. We remand this case to the district court for the limited purpose of obtaining a statement of the reasons for its order.

¹Local 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

I.

Hennessey's claims against Lubbock County, Texas (the "County") and Lubbock County Judge Don McBeath center on an altercation between Hennessey and Lubbock County Justice of the Peace L.J. Blalack. Hennessey sought access to complaints filed in Blalack's court by a local attorney. After a heated exchange between Hennessey and Blalack, Blalack charged Hennessey with contempt and requested a deputy sheriff to place him in custody. Before Blalack was escorted out of the courtroom, however, Blalack withdrew the contempt citation and instructed the bailiff to release Hennessey. Blalack later instructed his court clerks to prepare affidavits stating that Hennessey had been loud and abusive. Several clerks subsequently informed law enforcement officers that Blalack "coached" their affidavits. Blalack was later indicted for perjury and false arrest.

Hennessey filed a § 1983 complaint alleging that Blalack's contempt citation violated his constitutional rights and that Blalack conspired with his court clerks to deprive him of his constitutional rights by preparing false and defamatory affidavits. Hennessey also alleged that Judge McBeath and the County conspired with Blalack to violate the civil rights of county residents appearing in Blalack's court. Hennessey alleged that neither McBeath nor the County did anything to help him and other county residents who suffered constitutional deprivations at Blalack's hands. Hennessey further alleged that county officials operated a corrupt enterprise in violation of the

Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §§ 1961-1968 (RICO).

The district court entered Rule 54(b) orders dismissing most of the defendants and dismissing some of Hennessey's claims against the remaining defendants, including Hennessey's RICO claims. The district court then granted summary judgments against Hennessey on the remaining claims except for Hennessey's claims against the County and McBeath.² The court denied the defendants' motions for summary judgment and proceeded to a jury trial on these claims. At the close of the evidence, the court denied the defendants' Rule 50 motions for judgment as a matter of law and submitted the case to the jury. The jury returned verdicts against both defendants and awarded Hennessey \$10,000. The defendants then timely renewed their Rule 50 motions. Without explanation, the district court granted the defendants' motions and entered judgment against Hennessey. Hennessey timely appealed.

II.

²Hennessey filed numerous appeals of the district court's Rule 54(b) orders dismissing claims and defendants. We affirmed the district court's orders dismissing Hennessey's RICO claims. Hennessey v. Blalack, Nos. 93-1808, etc. (5th Cir. August 30, 1994)(unpublished). In another opinion, we affirmed the district court's dismissal of Hennessey's civil rights claims against Blalack. Hennessey v. Blalack, No. 94-10373 (5th Cir. January 26, 1995)(unpublished). Finally, in Hennessey v. Blalack, No. 94-10372 (5th Cir. February 2, 1995)(unpublished), we dismissed Hennessey's appeal as frivolous for raising arguments already decided by this court.

While the Federal Rules of Civil Procedure do not require the district court to state its reasons for granting a Rule 50 motion, "[i]n all but the simplest case, such a statement usually proves not only helpful, but essential." Jot-Em-Down Store (JEDS) Inc. v. Cotter & Co., 651 F.2d 245, 247 (5th Cir. 1981). In the present case, the district court gave no statement of its reasons for granting the defendants' motions. Given the volume of the evidence presented during trial and the complexity of Hennessey's conspiracy theory, such a statement would be very helpful to us in evaluating the propriety of the district court's order granting the defendants' Rule 50 motions.³ We therefore remand this case to the district court for the limited purpose of obtaining a statement of the reasons for the court's order granting the defendants' Rule 50 motions. This court's jurisdiction over Hennessey's appeal will remain in abeyance pending receipt of the district court's statement. See Smith v. Texas Dep't of Water Resources, 799 F.2d 1026, 1031 (5th Cir. 1986); Jot-Em-Down Store, 651 F.2d at 247.⁴

REMANDED.

³ Approximately 27 witnesses testified during the trial. Most of these witnesses were called by Hennessey to prove that McBeath and other county officials with final policy-making authority conspired with Blalack.

⁴ Hennessey filed a motion with this court to supplement the record. We will delay deciding this motion pending receipt of the district court's statement of reasons supporting its Rule 50 order.