IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Nos. 94-20188 & 94-20462

JASON AGUILLARD and RONALD F. WHITE,

Plaintiffs-Appellees,

versus

JOSEPH K. McGOWEN, ET AL.,

Defendants,

JOSEPH McGOWEN,

Defendant-Appellant.

Appeals from the United States District Court
for the Southern District of Texas
(CA-H-93-4110)

(December 23, 1994)

Before GARWOOD, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:[*]

Because this § 1983 case involves a federal question as well as pendent state claims, state-law privileges did not circumscribe the district court's authority to enter a protective order for medical and psychological records. The district court did not abuse its discretion in permitting limited discovery because these

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

records were relevant to the suit against codefendant Harris County. The district court properly denied McGowen's motion to dismiss because appellees pled with sufficient particularity. This is true even if we assume without deciding that appellees had to satisfy a heightened pleading requirement under § 1983. In addition, the district court properly exercised its discretion in refusing to convert the motion into a motion for summary judgment by considering affidavits. See Ware v. Associated Milk Producers, Inc., 614 F.2d 413, 414-15 (5th Cir. 1980). The district court's grant of the motion for reconsideration on April 29, 1994 was not a final judgment and is not appealable under the collateral order doctrine or under Helton v. Clements, 787 F.2d 1016, 1017 (5th Cir. 1986). We AFFIRM the district court's ruling on the protective order, AFFIRM the denial of McGowen's motion to dismiss, and DISMISS McGowan's appeal of the April 29 order for lack of jurisdiction. Because no motion for summary judgment was pending before the district court, we express no opinion on the outcome of such a motion.