

UNITED STATES COURT OF APPEALS  
for the Fifth Circuit

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No. 94-40042  
Summary Calendar

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JOHN E. SLAN,

Plaintiff-Appellant,

VERSUS

TOMMY HARRIS, Sheriff, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
(6:92-CV-304)

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(December 21, 1994)

Before DUHÉ, WIENER, and STEWART, Circuit Judges.

PER CURIAM:<sup>1</sup>

Appellant brought this civil rights action against several law enforcement officers and the court appointed attorney who represented Appellant in his trial for a drug offense. Appellant alleges the defendants violated his Fifth Amendment rights to due process in the forfeiture of jewelry and cash taken from him when he was arrested with Willie James Crosby. He also alleges that the seizure of the property violated his Fourth Amendment rights. The

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

district court granted summary judgment for all defendants and granted the motion to dismiss the attorney. We affirm.

Appellant first argues that notice of the seizure and forfeiture was deficient because he did not receive it, and because the notice identified the property as that of Crosby and not Appellant. Actual notice is not required, only notice "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). Notice was published and mailed to Appellant at the address he gave the authorities. That is sufficient. The error in the identity of the owner, when considered in light of all the facts of this particular case, was not fatal. In the circumstances presented here Appellant got constitutionally sufficient notice. His allegations that the misidentity of the owner in the notice was a conspiracy against him are only conclusional and do not raise an issue of material fact.

Because Appellant received due process, the district court correctly determined that it did not have jurisdiction to review the administrative forfeiture proceedings, which includes whether the property was forfeitable and whether the search and seizure were illegal. See Scarabin v. Drug Enforcement Administration, 919 F.2d 337 (5th Cir. 1990); see also Vance v. United States, 676 F.2d 183 (5th Cir. 1982).

Next Appellant contends that his attorney conspired with the other defendants by allowing them to proceed with the forfeiture

and pretending that he lost the receipts for the property which Appellant had given to him. The district court granted the attorney's motion to dismiss for failure to state a claim under § 1983. This was correct. The allegations of conspiracy between his counsel and other defendants are all conclusional. No specific facts or legal theories permitting recovery against the attorney or any of the other defendants are set out.

To the extent that Appellant may have alleged any constitutional claims against any other defendants in the district court he has failed to brief those issues on appeal and they are waived.

Finally, Appellant contends that the district court abused its discretion by not allowing him discovery and by placing the case on a limited discovery track in compliance with Article 1 of the Civil Justice Expense and Delay Reduction Plan. We find no abuse of discretion. Appellant does not explain how the discovery he was denied would create a genuine issue of fact.

Appellant has filed a motion for appointment of counsel on appeal and to supplement his brief. Both motions are DENIED.

The judgment of the district court is  
AFFIRMED.