

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60120
Summary Calendar

RAFAEL ALVAREZ ET AL.,

Plaintiffs,

JOE ACEVEDO,

Plaintiff-Appellant,
Cross-Appellee,

versus

TEXAS CITY OF SAN BENITO,

Defendant-Appellee,
Cross-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-B82-199
- - - - -

December 21, 1995

Before KING, SMITH and BENAVIDES, Circuit Judges.

PER CURIAM:*

Joe Acevedo appeals the district court's order granting the City of San Benito's motion for summary judgment. The district court held that Acevedo's claims are barred under the doctrine of res judicata. Acevedo argues that the claims raised in his two lawsuits do not involve the same cause of action and that there

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

is a genuine issue of material fact whether the parties intended that a consent judgment dismissing the prior lawsuit with prejudice should be given preclusive effect. Based upon a careful review of the record and applicable law, we conclude that the district court did not err in granting summary judgment against Acevedo and in favor of City of San Benito. The district court's judgment is AFFIRMED.