

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60255
Summary Calendar

M. BEACHAM TAYLOR,

Plaintiff-Appellant,

versus

COPIAH COUNTY, MISSISSIPPI,
TONY SMITH, Supervisor, Copiah
County, Mississippi, and GEORGE
PAGE, Land Surveyor, Copiah
County Mississippi,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Mississippi
(3:92 CV 523 WS)

March 21, 1995

Before JONES, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

Appellant Taylor sued officers of Copiah County, Mississippi, including Supervisor Tony Smith and former County Surveyor George Page, the latter of whom has now died. Mr. Taylor asserted several claims related to the county's alleged

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

appropriation of his land for rural roads and to benefit other landowners. After discovery, the district court granted summary judgment on the basis of the statute of limitations or failure to state a claim. Finding no reversible error in the district court's discussion of the issues, we affirm.

Because the district court thoroughly evaluated Taylor's case, we need only summarize the crucial points that demonstrate the correctness of his judgement.

First, no claim remains as to Triplett Lane. The district court required the county to reform the deed whereby Triplett Lane was acquired, for the purpose of confirming that the county maintains only an easement in that right-of-way. As this was the gist of Taylor's complaint, summary judgment was proper.

As to Berry Lane, Taylor should have known by 1985, when county crews widened the road and filled in the cattle gap, that the county had harmed or attempted to take his property and intended to maintain the road as if it were a public road. Notwithstanding this knowledge, Taylor did not file suit until the end of August, 1992, more than six years after the cause of action accrued. His due process claim regarding Berry Lane was barred by the statute of limitations.

Taylor also sued County Surveyor Page, alleging that he performed a survey which enabled some adjacent landowners to "take" some of Taylor's property. Even if Page assisted in a deprivation of Taylor's property, this claim does not state a constitutional due process violation, because at most, this would have been a

random, unauthorized act for which there are adequate state law remedies. Holloway v. Walker, 784 F.2d 1287, 1290-93 (5th Cir.), cert. denied, 479 U.S. 984 (1986). Taylor could have pursued remedies against Page or the landowners in a suit to quiet title, Mississippi Code Ann. § 11-17-31 (1972), or in a conversion action. West v. Combs, 642 S.2d. 917, 920 (Miss. 1994).¹

Taylor alleges that County Supervisor Smith discriminated against Taylor because he is black in regard to the deed concerning Berry Lane, the county's performance of maintenance there, and Taylor's failure to receive garbage collection services. Apart from Taylor's speculation, there is no evidence from which intentional discrimination could be inferred. The county had the right to maintain property that is operated as a public road, and Taylor admitted that he had never requested garbage collection services from Smith or the company. No facts in the record could give rise to a claim of intentional denial of equal protection.

Taylor's procedural complaints have no merit. He plainly received sufficient notice of the Rule 56 summary judgment hearing, including an extension of time because he did not at first have counsel. If there was no court reporter present, he does not indicate he was harmed by the absence of one. Taylor failed to raise in the district court his unhappiness with his retained attorney and has therefore waived that issue. Varnado v. Lynaugh,

¹ Taylor also contends that Page was improperly hired as a county surveyor because he was not licensed or otherwise authorized as a land surveyor. This claim gives rise to no issue cognizable in a § 1983 action. See Mahone v. Addicks Utility District of Harris County, 836 F.2d 921, 927 (5th Cir. 1988).

920 F.2d 320, 321 (5th Cir. 1991). Contrary to Taylor's contention, the district judge issued a thirteen-page order containing findings of fact and conclusions of law that are fully adequate for our appellate review. Finally, the "full faith and credit" argument is meaningless.

For these reasons, the judgment of the district court is AFFIRMED.