

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-60819  
Summary Calendar

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GARY MOAWAD,

Plaintiff-Appellant,

versus

J. D. McADORY, Sheriff,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 3:93-CV-147  
- - - - -

March 20, 1996

Before DAVIS, BARKSDALE and DeMOSS, Circuit Judges.

PER CURIAM:\*

Gary Moawad appeals from the trial court's grant of summary judgment, dismissing his prisoner's civil rights complaint filed pursuant to 42 U.S.C. § 1983 against Hinds County Sheriff J. D. McAdory, for allegedly entering false information into his criminal record.

Moawad contends that he did not waive his right to a jury trial when he consented to proceed before a magistrate judge and that he was not given proper notice by the clerk's office as

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

required by Fed. R. Civ. P. 73(b) that he could elect not to proceed before a magistrate judge. The record contains Moawad's signed "Consent to Proceed Before a United States Magistrate" form and his signed withdrawal of a jury trial request. These documents evidence Moawad's voluntary waiver of his right to proceed before a judge of the United States district court, his consent to have a United States magistrate conduct any further proceedings, and his desire to proceed without a jury. The magistrate judge may enter summary judgment prior to trial if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56; 28 U.S.C. § 636(c).

Moawad argues that the trial court erred in granting the motion for summary judgment without considering his pending motion to hold his former appointed counsel in contempt. Moawad conceded that the false entry was done without the knowledge and not at the direction of Sheriff McAdory. Absent either McAdory's personal involvement or evidence of a policy implemented by him, Moawad failed to state a claim under § 1983. Lozano v. Smith, 718 F.2d 756, 768 (5th Cir. 1983).

AFFIRMED.