

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-20817

Summary Calendar

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Ashok Sheth,

Plaintiff-Appellant,

versus

BW/IP International, Inc.,  
John Donatiello, Don Segers,  
Dan Sheehy, and Otto Rudinger,

Defendants-Appellees.

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Appeal from the United States District Court  
For the Southern District of Texas  
(H-93-CV-4114)

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October 18, 1996  
Before HIGGINBOTHAM, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Ashok Sheth appeals the dismissal with prejudice of his Title VII and ADEA claims. We will uphold a dismissal with prejudice where there is a clear record of delay by the plaintiff and lesser sanctions would not serve the best interests of justice. Price v. McGlathery, 792 F.2d 472, 474 (5th Cir. 1986). The lower court in this case tried to compel Sheth to attend depositions before finding that Sheth's delay could only be remedied by

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\*Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

dismissal. The district court's ruling is therefore within its discretion and the judgment is AFFIRMED.