

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-40484  
Conference Calendar

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JOHN EDWARDS WEEKS,

Plaintiff-Appellant,

versus

ROGER D. SHIPMAN, JACK MARSH,  
LEE GABRIEL, SAM HOUSTON, DAVE  
MCCORMICK, DENTON COUNTY, TX,  
DENTON POLICE DEPARTMENT,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:91-CV-222  
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(October 18, 1995)

Before POLITZ, Chief Judge, and REAVLEY and SMITH, Circuit Judges.

PER CURIAM:\*

John Edwards Weeks, a Texas state prisoner, filed this pro se, in forma pauperis (IFP), 42 U.S.C. § 1983 action against his court-appointed trial attorney, Roger Shipman; the defense private investigator, John Marsh; the assistant district attorney, Lee Gabriel; the District Attorney of Denton County, Jerry Cobb; the trial judge, Sam Houston; police officer Dave

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

McCormick, the Denton Police Department, and Denton County, Texas. Weeks alleged the defendants conspired to falsely arrest and convict him for aggravated sexual assault and included allegations that he was arrested without probable cause and subjected to an impermissibly suggestive lineup, that the district attorney made improper arguments to the jury, that evidence against him was fabricated, and that his attorney provided ineffective assistance of counsel.

Judges and criminal prosecutors enjoy absolute immunity from claims for damages asserted under § 1983 for actions taken in their official functions. Boyd v. Biggers, 31 F.3d 279, 285 (5th Cir. 1994). Even allegations of conspiracy do not pierce this immunity. Id. Therefore, assistant district attorney Gabriel, District Attorney Cobb, and Judge Houston are absolutely immune from a suit for damages.

As Weeks has not alleged that his conviction and sentence have been invalidated by any other proceeding in state or federal court, he has not alleged a cognizable § 1983 claim against the remaining defendants under Heck v. Humphrey, 114 S. Ct. 2364, 2372 (1994). The district court did not abuse its discretion in dismissing Weeks' claims against the defendants with prejudice. See Boyd, 31 F.3d at 284-85 (affirming dismissal with prejudice of § 1983 claims deemed without merit under Heck and doctrine of absolute immunity).

AFFIRMED.