

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40027
Summary Calendar

DANIEL JOHN SHEEHAN,

Plaintiff-Appellant,

versus

NUECES COUNTY ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-97-CV-255
- - - - -

December 8, 1998

Before HIGGINBOTHAM, JONES, and DENNIS, Circuit Judges.

PER CURIAM:*

Daniel John Sheehan, Texas prisoner # 426771, appeals the magistrate judge's dismissal of his civil rights complaint pursuant to 29 U.S.C. § 1915A for failure to state a claim. See 28 U.S.C. § 636(c). Sheehan argues that the magistrate judge erred in not allowing Sheehan to dismiss his complaint voluntarily, in determining that the sheriffs could not be held responsible on a theory of respondeat superior, by dismissing the false arrest and false imprisonment claims against the sheriffs

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

and the counties, by adding defendants to the case and adding back into the case defendants who had been dismissed, and in concluding that the complaint failed to state a claim regarding the seizure of Sheehan's legal materials, and abused her discretion by dismissing the complaint prior to service or discovery and without allowing Sheehan to amend his pleadings, and in concluding that the complaint failed to state a claim regarding the seizure of Sheehan's legal materials.

We have reviewed thoroughly the record, briefs, and arguments and find no reversible error. We AFFIRM the dismissal of Sheehan's complaint essentially for the reasons stated by the magistrate judge in Sheehan v. County of Gregg et al., U.S.D.C. C-97-255 (S.D. Tex. Dec. 15, 1997). We are able to dispose of the appeal on the record before us, Sheehan's motion for a transcript of the Spears** hearing at government expense is DENIED.

The appeal is DISMISSED as frivolous. 5TH CIR. R. 42.2

** Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985).