

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8719
Conference Calendar

JUAN JORGE SANCHEZ,

Plaintiff-Appellant,

versus

STEVEN HILBIG, Bexar County
District Attorney, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-93-CV-568
- - - - -
(March 25, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

Juan Jorge Sanchez filed a civil rights action against Steven C. Hilbig, District Attorney for Bexar County; Diana Cruz, an Assistant District Attorney; Gabe Quintanilla, an Assistant District Attorney; Judge Mike M. Machado; Judge Shirley W. Butts; James L. Bruner, court-appointed trial counsel; and James C. Oltersdorf, court-appointed counsel on appeal. Sanchez alleged that the defendants conspired to deprive him of his constitutional rights to equal protection and "equal immunities

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

and privileges" beginning with his indictment for murder, throughout his trial, and on appeal. He appeals from the judgment of the district court dismissing the action without prejudice to permit Sanchez to pursue the claims initially through habeas corpus.

Claims in which the "resolution of the factual allegations and legal issues necessary to decide the § 1983 claim may, in effect, automatically entitle one or more claimants to immediate or earlier release" must "be pursued initially through habeas corpus." Serio v. Members of La. State Bd. of Pardons, 821 F.2d 1112, 1119 (5th Cir. 1987). Sanchez's allegations that the defendants conspired to charge and convict him and to deprive him of an effective appeal is such a claim. There is no authority for Sanchez's contention that the district court may not dismiss an action sua sponte under these circumstances. The district court's dismissal of the civil rights complaint to await the resolution of Sanchez's pending habeas corpus petition was the proper course of action.

AFFIRMED. The motion for appointment of counsel is DENIED.