



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-15-00221-CV

SAAHIR JEHAAD ABDALLAH, APPELLANT

V.

JIM HOLMES, ET AL., APPELLEE

On Appeal from the 237th District Court
Lubbock County, Texas
Trial Court No. 2014-511,655, Honorable Leslie Hatch, Presiding

March 3, 2016

MEMORANDUM OPINION

Before QUINN, C.J., and HANCOCK and PIRTLE, JJ.

Appellant Saahir Jehaad Abdallah (acting *pro se*) appeals from an order dismissing his lawsuit. We affirm.

Abdallah sued various officers working for the City of Lubbock Police Department for “bad faith” and “wrongful arrest.” Those officers answered and filed special exceptions to his live pleading. The trial court granted the special exceptions and

ordered Abdallah to replead, which Abdallah apparently agreed to.¹ A document entitled “Plaintiff’s First Amended and Supplemental to the Original Petition Tort Complaint” was filed by Abdallah. That resulted in the officers filing a second set of special exceptions coupled with a motion to strike and dismiss. They believed themselves entitled to relief because Abdallah’s amendment purportedly was “unintelligible,” failed to comply with the prior order, failed to comply with Texas Rules of Civil Procedure 47 and 50, failed to clearly identify the defendants, failed to allege whether the defendant officers were sued in their individual or official capacities, and failed to afford the defendants “fair notice of the claim(s) involved.” The special exceptions and motion to strike were granted which resulted in the absence, according to the trial court, of “a viable cause of action.” Because of the latter, the trial court dismissed the lawsuit.

Abdallah appealed, secured an appellate record consisting of the clerk’s record, and filed a brief. The brief was defective in that it failed to comply with the appellate rules pertaining to briefing. This court informed appellant of his need to re-brief and gave him an opportunity to do so. A second brief was filed wherein he reurged his contention that the officers acted in “bad faith” and that he was a victim of a “wrongful arrest.” So too did he aver that the criminal prosecution arising from his arrest was dismissed by the district attorney due to insufficient evidence, he was denied “due process,” and his constitutional rights found in the “IV,” “V,” “VI,” “VIII,” and “XIV” amendments to the United States Constitution were violated. Nowhere did he address

¹ It ordered Abdallah to “replead his original petition, including paragraphs two (2) through nine (9) and the paragraph entitled ‘Prayer.’” He was further directed to “replead in such a way as to set forth [his] legal claims and causes of action in compliance with the Texas Rules of Civil Procedure, specifically Rules 47 and 50” and “file his amended pleadings within thirty (30) days of the date of this order.”

how or why the trial court allegedly erred in granting the special exceptions urged below and dismissing the petition.

Special exceptions serve to compel clarification of pleadings when those pleadings “are not clear or sufficiently specific or fail to plead a cause of action.” *Baylor Univ. v. Sonnishsen*, 221 S.W.3d 632, 635 (Tex. 2007). Trial courts have broad discretion in ruling on special exceptions. *Id.*; *Perry v. Cohen*, 285 S.W.3d 137, 142 (Tex. App.—Austin 2009, pet. denied). So too may it dismiss a cause of action if the plaintiff fails or refuses to amend his petition after the trial court entered an order granting special exceptions. *Perry v. Cohen*, 285 S.W.3d at 142. And, if the latter should occur and the remainder of the petition fails to allege any causes of action, the trial court may also dismiss the entire suit. *Id.*; *Hoover v. J & J Home Inspections*, No. 09-13-00454-CV, 2015 Tex. App. LEXIS 794, at *16 (Tex. App.—Beaumont January 29, 2015, no pet.) (mem. op.) (stating that “[a]fter a litigant has been given multiple opportunities to correct deficient pleadings and the trial court sustains special exceptions and orders the party to amend, a trial court does not abuse its discretion in dismissing the matter with prejudice.”)

Because the decision whether to grant special exceptions lies in the trial court’s discretion, an appellant has the obligation to illustrate that the trial court abused its discretion. *Hartman Income Reit PPTY Holdings, LLC v. Dallas Central Appraisal Dist.*, No. 07-11-00079-CV, 2012 Tex. App. LEXIS 8835, at *2 (Tex. App.—Amarillo October 23, 2012, pet. denied) (mem. op.) (stating that “the burden lies with the appellant to establish that an abuse of discretion occurred.”) Abdallah, the appellant, did not do that here, as previously mentioned. No effort was made to explain why the trial court erred

in granting both the first and second sets of special exceptions. Nor did he address why the trial court purportedly erred in striking his causes of action and then dismissing his suit given the absence of any remaining, viable causes of action. Having failed to carry his burden, we have no basis upon which to reverse the order dismissing the suit.

We affirm the trial court's order of dismissal.

Per Curiam