

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

December 16, 2009

Charles R. Fulbruge III  
Clerk

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No. 09-50210  
Summary Calendar

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KENNETH BLACK

Plaintiff-Appellant

v.

OPTION ONE MORTGAGE CORPORATION; BEN SCROGGIN, Constable  
of Precinct One Comal County; JOSEPH DAVALOS

Defendants-Appellees

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Appeal from the United States District Court  
for the Western District of Texas

Lower Docket Number 5:07-CV-151

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Before: WIENER, STEWART, and ELROD, Circuit Judges.

PER CURIAM:\*

Plaintiff-Appellant Kenneth Black appeals from rulings of the district court, including its denial of Black's motion for leave to file a first amended complaint and its grants of summary judgment dismissing all claims against Defendant-Appellee Scroggin on grounds of qualified immunity and dismissing all claims for conversion of his personal property against all Defendants-

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Appellees. Black's claims arise from a series of incidents that flowed from foreclosure proceedings instituted by Option One Mortgage Corporation on Black's residence following default and subsequent eviction proceedings during which possession of that residence was taken on the basis of duly issued state court orders while Black, a former incarcerated felon and veteran, was a patient in a Veterans Administration hospital. Those claims assert that he lost personal property that was located in the residence and was either placed outside on his lot or — in the case of a number of firearms, ammunition, a gun safe, and other sensitive items — was taken into protective custody by law enforcement officials during the course of executing the eviction order.

We have carefully reviewed the record on appeal, including the briefs of the parties and the reports and recommendations of the magistrate judge on which the district court grounded its several rulings. From our review, we are satisfied that the district court did not abuse its discretion in denying Black's motion to file an amended complaint, given the dilatory timing and defective nature of the filings seeking that amendment. We are further convinced that the district court correctly granted qualified immunity to Defendant-Appellee Scroggin and summary judgment to him on that basis, and that the court properly granted summary judgment dismissing Black's conversion claims against all Defendants-Appellees, essentially for the reasons set forth by the magistrate judge. Accordingly, the orders and judgments of the district court from which Black appeals are, in all respects,

**AFFIRMED.**