

United States District Court
Southern District of Texas

ENTERED

May 06, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

WENDEL SMITH,	§	CIVIL ACTION NO.
(former SPN #1228556)	§	4:21-cv-01885
Petitioner,	§	
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
ED GONZALEZ,	§	
Respondent.	§	

MEMORANDUM ON DISMISSAL

The petition for a writ of *habeas corpus* filed by Petitioner Wendel Smith is dismissed without prejudice for want of prosecution. Dkt 1. The motion to dismiss filed by Respondent Ed Gonzalez is DENIED AS MOOT. Dkt 7.

Smith proceeds here *pro se*. He challenges his pretrial detention. The Harris County District Clerk's website shows that he was awaiting trial on several charges before the 209th Judicial District Court of Harris County, Texas, including Cause Numbers 1704333 (felony theft \$2,500–\$30,000); 2332639 (misdemeanor driving while intoxicated); 1697483 (felony evading arrest or detention with a motor vehicle); 1679274 (felony unauthorized use of a vehicle); 1679032 (felony unauthorized use of a vehicle); and 1676087 (felony theft greater than or equal to \$2,500 with two or more previous convictions). Smith was convicted of some offenses, and others were dismissed.

He was an inmate of the Harris County Jail at the time of filing. Online records show that he's no longer confined there.

Notices are sent only to the address on file, and a *pro se* litigant is responsible for keeping the Clerk advised in

writing of a current address. Local Rule 83.4. Smith hasn't provided the Clerk with an accurate, current address.

Under the inherent powers necessarily vested in a district court to manage its own affairs, this action is dismissed for want of prosecution. See FRCP 41(b); *Link v Wabash Railroad Co*, 370 US 626, 630–31 (1962); *Clofer v Perego*, 106 F3d 678, 679 (5th Cir 1997); James W. Moore, *et al*, 8 *Moore's Federal Practice* § 41.51(3)(b) & (e) (Matthew Bender 3d ed 2017).

Relief under Rule 60(b) of the Federal Rules of Civil Procedure will be granted upon a proper showing. See *Link*, 370 US at 635.

The petition for a writ of *habeas corpus* filed by Petitioner Wendel Smith is DISMISSED WITHOUT PREJUDICE for want of prosecution. Dkt 1.

The motion to dismiss filed by Respondent Ed Gonzalez is DENIED AS MOOT. Dkt 7.

Any other motions are DENIED AS MOOT.

SO ORDERED.

Signed on May 6, 2022, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge