

Hearing set on suit by ex-DA

Scott, Dallas station ask for dismissal

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A visiting judge will hear evidence this week to determine if a \$44 million libel suit filed four years ago by former McLennan County District Attorney Vic Feazell against a Dallas television station, an ex-reporter and former Waco Police Chief Larry Scott should be dismissed.

Visiting Judge James Myers of Austin has scheduled a hearing for Thursday to consider a motion for summary judgment filed by the A.H. Belo Corp., Dallas TV station WFAA, former Channel 8 reporter Charles Duncan and Scott.

Attorneys for the station and Scott have said that Feazell was a public official when the 10-part series and commentary aired and have denied that they were libelous. They are asking that the judge throw out the suit and order Feazell to pay their attorneys' fees.

The series was reported by Duncan, who was fired from Channel 8 earlier this year. The segments criticized the manner in which Feazell's office handled a variety of criminal cases, particularly driving while intoxicated cases.

Scott, who was relieved of police command March 26 by City Manager John Harrison, was named in the suit because information he reportedly supplied Duncan for the reports was "false, malicious and had no basis in fact," according to Feazell's attorney, Gary Richardson of Tulsa, Okla.

Scott now is head of the city of Waco's personnel department.

Myers, assigned to preside over the case when 19th State District Judge Bill Logue recused himself, has set aside two days for the hearing in 19th State District Court. He has set a tentative trial date of Sept. 10 in the case.

Please see FEAZELL, Page 11B

WEDNESDAY

July 11, 1990 *

Feazell libel suit hearing this week

□ From Page 1B

Feazell has said in motions that Duncan, in essence, was acting as an arm of law enforcement while preparing the series because his investigation was in conjunction with that of local, state and federal officers investigating Feazell's office. Motions filed by Feazell say a tape of Duncan's series was played to the Austin grand jury that indicted Feazell.

The station has countered that Feazell will be unable to prove actual malice by showing that the station and Duncan knew the broadcasts were "false or acted with reckless disregard for the truth or falsity of the broadcasts."

Feazell has said that he easily will be able to prove that Duncan maliciously prepared the series with full knowledge that much of the information was not true.

"... the instances of negligence in this case are so plentiful and so obvious that it is a mischaracterization to refer to them as mere negligence," Feazell wrote in his answer to the motion for summary judgment. "Rather, plaintiff contends that they rise at least to the level of gross negligence and are probative of defendants' recklessness and his subjective state of mind."

Feazell, who resigned as district attorney in September 1988, filed the suit in June 1986. He was cleared of federal bribery and racketeering charges in 1987 after a monthlong trial in Austin.

Feazell has said that he can prove the investigation, which coincided with Duncan's series, was launched after local, state and federal authorities conspired to retaliate against him for heading a grand jury investigation into bogus murder confessions made by Henry Lee Lucas.

Authorities at one time had charged Lucas, now a death row inmate, with more than 300 murders. He later recanted all but one of his murder confessions.