

October 5, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-10713  
Summary Calendar

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MARCUS BLALOCK,

Plaintiff-Appellant,

versus

STATE FARM INSURANCE COMPANY,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:05-CV-687  
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Before KING, HIGGINBOTHAM and GARZA, Circuit Judges

PER CURIAM:\*

Marcus Blalock filed a civil complaint naming State Farm Insurance Company and Dorothy Smith as defendants, alleging that he was involved in an automobile accident with Smith who was insured by State Farm. The district court dismissed the action for lack of subject matter jurisdiction.

The district court determined that diversity of citizenship between the parties did not exist and that a United States Government plaintiff was not a party to the action, despite Blalock's contrary indication when he filed his complaint.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Blalock has abandoned his appeal with respect to these determinations by failing to challenge them. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Blalock argues that the district court had jurisdiction because State Farm's denial of his personal injury claims violated his rights under the Americans with Disabilities Act (ADA). No indication of any ADA claim "affirmatively appear[ed]" on the face of Blalock's complaint. Margin v. Sea-Land Servs., Inc., 812 F.2d 973, 976 (5th Cir. 1987). Thus the district court did not err in dismissing the action for lack of subject matter jurisdiction. See 28 U.S.C. §§ 1331 and 1332; Nauru Phosphate Royalties, Inc. v. Drago Daic Interests, Inc., 138 F.3d 160, 163 n.1 (5th Cir. 1998); Margin, 812 F.2d at 976.

Accordingly, we AFFIRM the judgment of the district court. Blalock's motion for the appointment of counsel is DENIED.