

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 03-10649
Conference Calendar

TOMMY L. PARKER, Rabbi,

Plaintiff-Appellant,

versus

RON McLAURIN; JESSE MENDEZ,

Defendants-Appellees.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:02-CV-115-C
- - - - -

Before BARKSDALE, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Tommy L. Parker, a Texas resident, appeals from the district court's order granting the defendants' FED. R. CIV. P. 12(b)(6) motion to dismiss his complaint, purportedly filed pursuant to the civil rights provision, 42 U.S.C. § 1983, for failure to state a claim on which relief may be granted.

Parker sought damages from the defendants, McLaurin and Mendez, who are attorneys in private practice, for violations of his due process rights. Parker made the following allegations: After he hired McLaurin to represent him in a state-law matter, McLaurin effectively abandoned him. Parker then sued McLaurin,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

who hired Mendez as his own attorney. During this second proceeding, McLaurin perjured himself, and both McLaurin and Mendez engaged in improper ex parte communications with the trial judge.

The district court granted the defendants' Rule 12(b)(6) motion on the ground that Parker's allegations failed to establish that either defendant had acted under "color of state law." See Morris v. Dearborne, 181 F.3d 657, 666 n.6 (5th Cir. 1999). In his pro se appellate brief, Parker has failed to challenge the legal basis upon which the district court dismissed his complaint. Failure to identify an error in the district court's analysis is the same as if Parker had not appealed the judgment. Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). Accordingly, Parker's appeal is without arguable merit, Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983), and we DISMISS the appeal as frivolous. 5TH CIR. R. 42.2.

Parker's motion to amend his reply brief is DENIED as unnecessary.

APPEAL DISMISSED; MOTION TO AMEND DENIED.