

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-1983
Conference Calendar

SAMUEL JACKSON,

Plaintiff-Appellant,

versus

CNA INSURANCE COMPANIES
of Dallas, Texas,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:92-CV-0722-H

- - - - -
March 17, 1993

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Title 42 U.S.C. § 1983 provides remedies only for injuries inflicted by persons acting under color of state law. Hagerty v. Succession of Clement, 749 F.2d 217, 220-21 (5th Cir. 1984), cert. denied, 474 U.S. 968 (1985). Samuel Jackson has failed to allege any way in which CNA Insurance Company, a private company, acted under color of state law. A federal complaint must set forth facts showing that the case arises under federal law. Reid

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

v. Hughes, 578 F.2d 634, 637 (5th Cir. 1978).

Diversity jurisdiction does not apply because it appears from the face of the pleadings that Jackson and CNA are both Texas residents. See Strain v. Harrelson Rubber Co., 742 F.2d 888, 889 (5th Cir. 1984).

This Court declines to consider Jackson's claim that the defendant violated his rights under the 1871 Civil Rights Act because he did not raise this issue in the district court. Fransaw v. Lynaugh, 810 F.2d 518, 523 (5th Cir.), cert. denied, 483 U.S. 1008 (1987).

Although pro se pleadings are to be construed liberally, Wesson v. Oglesby, 910 F.2d 278, 281 (5th Cir. 1990), a court should dismiss for want of jurisdiction if the federal claim is frivolous or a mere matter of form. Sarmiento v. Texas Bd. of Veterinary Medical Examiners by and through Avery, 939 F.2d 1242, 1245 (5th Cir. 1991). Jackson's federal law claims "appear[] to be immaterial and made solely for the purpose of obtaining jurisdiction." Bell v. Hood, 327 U.S. 678, 682, 66 S.Ct. 773, 90 L.Ed. 939 (1946).

Jackson's motion for an evidentiary hearing is DENIED and the dismissal of the suit is AFFIRMED.