

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-2345
Conference Calendar

RUTH MCALLISTER,

Plaintiff-Appellant,

versus

WILLIAM MCCULLOCH, Judge, ET AL.,

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA H 92 656

(January 22, 1993)

Before GARWOOD, SMITH, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

The district court dismissed Ruth McAllister's suit for lack of jurisdiction. The district court noted that "[t]he referenced action purports to be an appeal of an unfavorable judgment in the Texas state court." On appeal, McAllister has filed six motions.

McAllister's primary claim is that the administratrix of her mother's estate somehow committed fraud. McAllister has failed to demonstrate any basis for federal jurisdiction over this fraud

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

claim. McAllister has attempted to show a constitutional violation by claiming that she has been denied her constitutional rights on the basis of race and states that this deprivation was made under color of state law; however, she has not presented the Court with any specific act of discrimination involving state action pertinent to her case on appeal. Such unsupported allegations will support neither an action under 42 U.S.C. § 1983 nor a claim of a constitutional violation. Elliott v. Perez, 751 F.2d 1472, 1479-80 (5th Cir. 1985).

McAllister has presented nothing to this Court to show that her claim is anything other than the complaint that she is entitled not to 1/6 of her mother's estate, but to 1/3 of it. "[L]itigants may not obtain review of state court actions by filing complaints about those actions in lower federal courts cast in the form of civil rights suits." Hale v. Harney, 786 F.2d 688, 691 (5th Cir. 1986). The district court was correct in finding that this lawsuit was no more than an attempt to appeal a state court action and was not properly in federal court. Although the Court is mindful of the liberal construction to be accorded to pro se pleadings, this appeal has no arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); Fed. R. App. P. 34(a)(1); Fifth Cir. R. 42.2.

MOTIONS DENIED; APPEAL DISMISSED.