

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3114
Summary Calendar

GREGORY JAMES CAHANIN,

Plaintiff-Appellant,

VERSUS

MAX B. TOBIAS, JR., ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana
(CA 92 4097 D6)

(September 20, 1993)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Gregory James Cahanin appeals, *pro se*, the dismissal, with prejudice, for lack of subject matter jurisdiction of his 42 U.S.C. § 1983 action against the State of Louisiana and various state officials. We **AFFIRM** the judgment as modified.

* Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

I.

Dissatisfied with his Louisiana state court child custody proceedings and allegedly related events, Cahanin initiated this civil rights action in August 1992 in federal district court in Massachusetts against the State of Louisiana and various state officials involved in the proceedings, seeking money damages and "a nullification of all decisions made by the Orleans Civil District Courts or any other court in the cause from 6 January 1987 forward ...". The action was transferred to the Eastern District of Louisiana, and the defendants moved to dismiss on various grounds pursuant to Fed. R. Civ. P. 12(b), including lack of subject matter jurisdiction. Cahanin failed to respond to the motion; and in February 1993, the district court dismissed the action, on the alternate bases of lack of subject matter jurisdiction and immunity.

II.

Cahanin raises various contentions regarding illegal arrest, involuntary servitude, denial of due process, venue, subject matter jurisdiction, various procedural rulings, and immunity. Because this appeal turns on lack of subject matter jurisdiction, we address only that issue.

Cahanin's action is a collateral attack on the state court child custody proceedings, in that the basis for his claims stems entirely from his dissatisfaction with the results in those proceedings. "[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); see also **Brinkmann v. Johnston**, 793 F.2d 111, 113 (5th Cir. 1986). Redress, should any be available, would be in the Louisiana state courts, or, ultimately, the United States Supreme Court. **Hale**, 786 F.2d at 691. Because Cahanin's constitutional claims are "inextricably intertwined" with the state court proceedings, the district court correctly dismissed the complaint as beyond its jurisdiction. See **id.** at 691.

We note that the dismissal for lack of subject matter jurisdiction should have been without prejudice, see **Verrit v. Elliot Equipment Corp.**, 734 F.2d 235, 238 (5th Cir. 1984); and, therefore, we modify the judgment accordingly. At the same time, we note that "pro se litigants [who] attempt to appeal domestic proceedings to federal court in the guise of civil rights action invite[] sanctions". **Brinkmann**, 793 F.2d at 113. This court has, and will, enforce that warning. See **id.**

III.

For the foregoing reasons, the judgment is modified to reflect dismissal without prejudice; and the dismissal, as modified, is

AFFIRMED.