

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-8084  
Summary Calendar

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AMO PAUL BISHOP,

Plaintiff-Appellant,

versus

STATE OF TEXAS, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Texas  
(W-92-CV-253)

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(August 6, 1993)

Before POLITZ, Chief Judge, DAVIS and SMITH, Circuit Judges.

PER CURIAM:\*

Amo Paul Bishop appeals the dismissal of her 42 U.S.C. § 1983 action. Her appeal is without merit. The district court lacked jurisdiction over her lawsuit; the only named defendants -- the State of Texas and the Texas Department of Protective and

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Regulatory Services -- are immune from the instant type of litigation in federal court.<sup>1</sup> Bishop's reliance on **Jackson v. O'Bannon**<sup>2</sup> is misplaced; the defendants in **Jackson** were two state officials, not, as here, the state and a state agency.

The focus of Bishop's appeal is her challenge to the state court's award of temporary custody of her daughter to the Texas Department of Protective and Regulatory Services. In addition to the above-noted jurisdictional defect, Bishop's action also founders because federal courts may not review state court decisions, even when the request for review, like Bishop's, is framed as a civil rights action.<sup>3</sup> Bishop maintains that she has no alternate avenue for relief because temporary custody orders are not appealable under Texas law. That lament does not overcome the jurisdictional failing. Indeed, assuming jurisdiction, the very interlocutory nature of the order would work to Bishop's disadvantage because a pending child custody dispute would trigger **Younger v. Harris**<sup>4</sup> abstention.<sup>5</sup>

AFFIRMED.

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<sup>1</sup> **Hans v. Louisiana**, 134 U.S. 1 (1890); **Saltz v. Tennessee Dept. of Employment Security**, 976 F.2d 966 (5th Cir. 1992).

<sup>2</sup> 633 F.2d 329 (3d Cir. 1980).

<sup>3</sup> **Krempp v. Dobbs**, 775 F.2d 1319 (5th Cir. 1985); **Hagerty v. Succession of Clement**, 749 F.2d 217 (5th Cir. 1984), cert. denied, 474 U.S. 968 (1985).

<sup>4</sup> 401 U.S. 37 (1971).

<sup>5</sup> **Moore v. Sims**, 442 U.S. 415 (1979); **DeSpain v. Johnston**, 731 F.2d 1171 (5th Cir. 1984).