

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-30537  
Summary Calendar

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DAVID H. HUGHES and  
TYRONE G. CLARK,

Plaintiffs-Appellants,

versus

JAMES H. "JIM" BROWN,  
ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
For the Middle District of Louisiana  
(CA-93-863-B-M1)

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(March 1, 1995)

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

PER CURIAM:\*

David H. Hughes and Tyrone G. Clark appeal the dismissal of their 42 U.S.C. § 1983 action against James Brown, the Louisiana Commissioner of Insurance. Concluding that the district court lacked jurisdiction to entertain this suit, we affirm the

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

dismissal.

Hughes and Clark were principals in Tyrone G. Clark and Associates Denta-Care, a corporation which contracted with dentists to provide services to patient-subscribers. After ten years of contrary signals, a new Louisiana Commissioner of Insurance initiated administrative proceedings to determine whether Denta-Care was a dental service contractor and thereby subject to regulation as an insurer within the meaning of Title 22 of the Louisiana Revised Statutes. The administrative law judge found that it was and Denta-Care sought state judicial review. Pending that review the Commissioner obtained an *ex parte* order from a different state judge placing Denta-Care in conservation but that judge's order was stayed by the state court of appeal pending determination of Denta-Care's petition for review.<sup>1</sup> The decision by the ALJ was affirmed and Denta-Care was given 45 days to satisfy the requirements applicable to domestic insurers. Before that 45-day period elapsed, however, the stay of the conservation order was lifted and Denta-Care was placed in rehabilitation. The court subsequently approved a plan assigning Denta-Care's assets to a third party. Hughes and Clark filed the instant lawsuit, alleging that the Commissioner violated their constitutional rights by forcing their company into rehabilitation.

Under the doctrine of **Rooker-Feldman**,<sup>2</sup> federal courts lack

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<sup>1</sup>The Commissioner also obtained an *ex parte* transfer, which promptly was vacated.

<sup>2</sup>**Rooker v. Fidelity Trust Co.**, 263 U.S. 413 (1923); **District of Columbia Court of Appeals v. Feldman**, 460 U.S. 462 (1983).

jurisdiction to entertain collateral attacks on state court judgments unless specifically prescribed by law.<sup>3</sup> Errors of the state trial court are to be reviewed by the appropriate state appellate court; recourse thereafter to the federal courts is to be had only by application for a writ of certiorari to the United States Supreme Court. "The casting of a complaint in the form of a civil rights action cannot circumvent this rule."<sup>4</sup> If a section 1983 suit is "inextricably intertwined" with a state court judgment, we may not hear it. Such is the situation in the instant case. Stripped to essentials, the suit is an attack on the decisions of the state court. The malfeasance of which the Commissioner is accused bears directly on whether Denta-Care should have been placed in rehabilitation. We may not, in this proceeding, expressly or impliedly review the actions of the state courts.

The district court dismissed this case on the merits, doing so with prejudice. Because we lack subject matter jurisdiction, our dismissal may only be without prejudice and without reaching the merits. As thus modified, the dismissal by the district court is AFFIRMED.

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<sup>3</sup>**Liedtke v. State Bar of Texas**, 18 F.3d 315 (5th Cir.), cert. denied, 115 S.Ct. 271 (1994).

<sup>4</sup>**Id.** at 317.