

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60461
Summary Calendar

WILLIAM FULWOOD, JR. and,
FORMER COCAINE USERS OF AMERICA,

Plaintiffs

WILLIAM FULWOOD, JR.,

Plaintiff-Appellant,

versus

MISSISSIPPI GAMING COMMISSION,
BILL JOHNSON, AND GARY CROCKER,

Defendants-Appellees.

Appeal from the United States District Court for the
Southern District of Mississippi
(3:94-CV-153-B-N)

(February 15, 1995)

Before GOLDBERG, KING, and GARWOOD, Circuit Judges.

PER CURIAM:*

Appellant William Fulwood, Jr. sued the Mississippi Gaming Commission, Bill Johnson (director of the Bingo Division of the Mississippi Gaming Commission), and Gary Crocker (investigative

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

gaming agent of the Mississippi Gaming Commission) on a variety of claims, including the Contract and Privileges and Immunities Clauses of the Constitution, and 28 U.S.C. § 1343(3) and (4), 42 U.S.C. § 1983, and 18 U.S.C. § 1964. The defendants motioned for summary judgment, which the district court granted. Fulwood appeals the granting of summary judgment. We affirm.

BACKGROUND

As best as can be adduced, Fulwood was involved, in some capacity, with the running of the bingo games of Friends of Education ("FOE"), a charity licensed by the Mississippi Gaming Commission to hold bingo games. In February 1994, Agent Crocker made a routine visit to inspect the books and records of FOE. While there he noticed that Fulwood was involved with the running of the bingo games. In a letter dated February 22, 1994, Agent Crocker complained to Vernita King Johnson, attorney for FOE, about several infractions he found while inspecting FOE's accounting. Amongst the many complaints Agent Johnson registered was Fulwood's involvement with the administration of the bingo games. Fulwood is not FOE's Member-in-Charge, who is the only official authorized to conduct bingo games. In response to Agent Crocker's concerns, FOE requested that Fulwood stay away from their bingo hall.

In his complaint, Fulwood alleged that the appellees "conspired with numerous others to prevent [him] from engaging or conducting bingo operations. Appellant's brief, p. 2. He also alleged that the appellees engaged in actions and made

allegations to prevent him from negotiating contracts and engaging in bingo operations. Id. For the appellees' conduct, Fulwood claimed to have suffered a heart attack, and demanded \$1,000,000 in compensatory damages and \$2,000,000 in punitive damages.

Apart from the allegations noted above, the Fulwood did not enunciate any other facts to support his claims in his complaint.¹ In response to the defendants' motion for summary judgment, Fulwood relied on the facts in his pleadings, which consisted solely of his complaint.

DISCUSSION

Summary judgment is appropriate if the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits show that there is no genuine issue of material fact in dispute. Fed.R.Civ.P. 56. The district court found, and the parties do not contest, that Fulwood's heart attack took place in the fall of 1993, or several months before Agent Crocker's visit to FOE and his subsequent recommendations. As such, the district court found that no connection could be made between the appellees' conduct and Fulwood injuries. Further, the district court found that Agent Crocker's suggestion that Crocker not be allowed to conduct bingo games—games that he was, by law, not

¹For the first time on appeal, Fulwood alleges several new facts which were not raised at trial. The proper place to raise these allegations was at trial where the district court could have weighed them in ruling on the summary judgment motion. Having failed to do so, Fulwood cannot prosper by his own inadvertence on appeal. First United Financial Corp. v. Specialty Oil Co., 5 F.3d 944, 948 (5th Cir. 1993).

permitted to run—was also not actionable. We agree fully with the district court that the facts asserted by Fulwood do not support his assorted causes of action, and therefore, AFFIRM.