

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-30028
Conference Calendar

BENJAMIN SEMIEN, JR.,

Plaintiff-Appellant,

versus

FIRST FEDERAL SAVINGS & LOAN OF
OPELOUSAS,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. CA-94-2014
- - - - -

March 21, 1995

Before GARWOOD, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Benjamin Semien, Jr., a resident of St. Landry Parish, Louisiana, filed a complaint alleging that his civil rights had been violated because the First Federal Savings & Loan of Opelousas, Louisiana, took his money and refused to cancel his mortgage. The district court dismissed the suit as frivolous under 28 U.S.C. § 1915(d) because the sole defendant, First Federal Savings & Loan of Opelousas, is not a state actor as

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

required under 42 U.S.C. § 1983. Resident Council of Allen Parkway Village v. U.S. Dep't of Housing and Urban Dev., 980 F.2d 1043, 1050 (5th Cir.) (to obtain relief under § 1983 a plaintiff must prove that he was deprived of a right under the Constitution or laws of the U.S. and that the person depriving him of that right acted under color of state law), cert. denied, 114 S. Ct. 75 (1993). The district court also cautioned Semien about filing frivolous lawsuits.

On appeal, Semien has not presented anything to show that this suit has any basis in federal law. Semien has not asserted that the savings and loan is a state actor, nor has he asserted any basis for diversity jurisdiction. The amount in controversy is at most \$40,000. Semien is a resident of Louisiana and First Federal Savings & Loan of Opelousas apparently has its principal place of business in Louisiana. See 28 U.S.C. §§ 1332(a) and (c). Semien's claim has no basis in law or in fact, and the district court did not abuse its discretion in dismissing it as frivolous. See Denton v. Hernandez, 112 S. Ct. 1728, 1733-34 (1992). Semien's appeal is without arguable merit and thus, frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983).

Semien is cautioned that if he persists in filing frivolous actions, the full panoply of sanctions, including contempt of court, will be brought to bear.

APPEAL DISMISSED. 5th Cir. R. 42.2.