

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

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No. 95-40923  
Summary Calendar

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GETZELL JOHNSON MURRELL, JR.,

Plaintiff-Appellant,

VERSUS

GARY W. MORGAN,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
(6:95-CV-213)

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August 1, 1996

Before SMITH, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

This is a diversity case in which Getzell Murrell, Jr., sues his former attorney for malpractice, for alleged inadequate representation in criminal proceedings. Murrell pleaded guilty to the offenses. In Texas, as in most jurisdictions, one cannot sue his attorney under such circumstances unlessSSwhich has not

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Pursuant to 5<sup>TH</sup> CIR. R. 47.5, the court has determined that this opinion should not be published except under the limited circumstances set forth in 5<sup>TH</sup> CIR. R. 47.5.4.

happened hereSShe has been legally exonerated of the charges. See, e.g., *Peeler v. Hughes & Luce*, 868 S.W.2d 823 (Tex. App.SSDallas 1993), *aff'd*, 909 S.W.2d 494 (Tex. 1995).

The magistrate judge wrote a lucid report and recommendation, filed September 25, 1995. It is correct, and the district court entered judgment dismissing the appeal on the basis thereof. Based on the plain authority cited in the report, Murrell has no good-faith basis on which to appeal. The appeal, accordingly, is DISMISSED as frivolous. See 5TH CIR. R. 42.2.