

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-60510
Summary Calendar

GLADYS MADISON, Guardian for Viola Williams,
Plaintiff-Appellee,

VERSUS

VINTAGE PETROLEUM, INC.,
Defendant-Appellant,

CONSOLIDATED WITH

HENRY LEE WILLIAMS,
Plaintiff-Appellee,

VERSUS

VINTAGE PETROLEUM, INC.,
Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi

(3:93-CV-663)

May 1, 1996

Before GARWOOD, WIENER and PARKER, Circuit Judges.

PER CURIAM:*

In considering the Motions for Stay Pending Appeal and for Expedited Appeal, we have reconsidered and now vacate our earlier order denying Plaintiff's Motion to Dismiss Vintage Petroleum,

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

Inc.'s Purported Notice of Appeal.

The district court ordered that documents of Appellant Vintage Petroleum, Inc. ("Vintage") be produced. These documents were submitted to the Mississippi Health Department by Southeastern Norm Environmental, Inc. and were then, pursuant to a Subpoena Duces Tecum to a department official, produced at a deposition in this case and handed over to Vintage. The magistrate judge's order reflects that these documents are "held under seal by Vintage," and the district court's order stated that "Vintage is hereby ordered to produce the aforesaid documents within ten days." Vintage -- a party to the case and the party claiming the privilege in the documents -- is the only party ordered to do anything. Its remedy is to disobey the order and appeal the contempt. *See Conkling v. Turner*, 883 F.2d 431 (5th Cir. 1989). We therefore lack jurisdiction over this interlocutory appeal. *Id.*

For the foregoing reasons, this appeal is DISMISSED.