

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10174
No. 96-10382
No. 96-10692
Summary Calendar

ROBERT L. AVRETT, JR.,

Plaintiff-Appellant,

versus

POLY-AMERICA, INC.; STEVEN
GRANT ROSS; JOAN M. TASKER;
WANDA WAKELAND; JOHN DOES 1-3;
JANE DOES 1-3,

Defendants-Appellees,

EDWARD M. CAVUTO; GARY O. BOOTH;
INTERNAL REVENUE SERVICE; JOHN DOES 1-3;
JANE DOES 1-3,

Defendants-Appellees.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:95-CV-803-A
- - - - -

March 14, 1997

Before HIGGINBOTHAM, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Robert L. Avrett, Jr., appeals the district court's
dismissal of his action against Poly-America, Inc., and its

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

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employees, Steven Grant Ross, Joan M. Tasker, and Wanda Wakeland; the Internal Revenue Service and its employees, Edward M. Cavuto and Gary O. Booth; and John Does 1-3 and Jane Does 1-3 for lack of subject matter jurisdiction and for failure to state a claim upon which relief may be granted pursuant to Fed. R. Civ.

P. 12(b)(1) and 12(b)(6). He argues that the defendants violated his Fourth, Fifth, and Fourteenth Amendment rights by issuing and honoring levies against his wages for income tax deficiencies. He argues that the district court failed to liberally construe his complaint and erred in ordering him to file an amended complaint asserting the facts supporting his claim against Cavuto and Booth in their individual capacities. We have reviewed the record and the district court's opinions and find no reversible error. Accordingly, we affirm for essentially the reasons given by the district court. Avrett v. Poly-America, Inc., et al., Nos. 4:95-CV-803-A (Feb. 6, 1996, March 26, 1996, and April 9, 1996).

Avrett's appeal is without arguable merit and is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, Avrett's appeal is DISMISSED. 5th Cir. R. 42.2. Avrett is cautioned that future frivolous civil suits and appeals filed by him or on his behalf will invite the imposition of sanctions. Avrett is cautioned further to review any pending suits and appeals to ensure that they do not raise

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arguments that are frivolous.

APPEAL DISMISSED; SANCTION WARNING ISSUED.