

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-30182  
Conference Calendar

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CALVIN RAY ARCENEUX, SR; SHELIA  
ARCENEUX; CALVIN RAY ARCENEUX, JR.;  
SHANNON DONOVAN; JAMES WHITE, JR;  
JOSHUA ARCENEUX; ACE TRUCK & TRAILER  
REPAIR, INC.,

Plaintiffs-Appellants,

versus

LARRY W. DURR, individually and in his  
official capacity as police officer for the  
City of Bossier City; ROYCE CHAPMAN, individually  
and in his official capacity as police officer  
for the City of Bossier City; TOMMY BLACK  
individually and in his official capacity as  
police officer for the City of Bossier City;  
DALE TEUTSCH, individually and in his official  
capacity as Deputy Chief of Police for the City  
of Bossier City; CITY OF BOSSIER CITY; LARRY DEEN,  
in his official capacity as Sheriff of Bossier Parish;  
TED RISER, in his official capacity as Sheriff of  
Webster Parish,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 98-CV-84  
- - - - -  
August 18, 1998

Before KING, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:\*

Plaintiffs appeal the district court's denial of their  
motion for a preliminary injunction requesting the return of bank

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\* Pursuant to 5TH CIR. R. 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that this opinion should not be published and is not precedent  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 5TH CIR.  
R. 47.5.4.

accounts seized pursuant to a state forfeiture proceeding. We have reviewed the record and the briefs of the parties and find that, contrary to appellants' arguments that the district court's decision was premised on a misinterpretation of Penn Gen. Cas. Co. v. Commonwealth of Pennsylvania, 294 U.S. 189, 195 (1935) and its progeny, the district court did not err in finding that it lacked jurisdiction over the accounts at issue. Under Penn Gen., until the state proceedings conclude or the accounts are released, the federal court cannot assert any jurisdiction over them, and nothing indicates that the principle developed in Penn Gen. applies only to competing forfeiture actions. It applies to all suits "requiring that the court have possession or control of the property which is the subject of the suit in order to proceed with the cause and to grant the relief sought." Penn Gen., 294 U.S. at 195. The district court's denial of a preliminary injunction is not a breach of its obligation to redress constitutional wrongs under 42 U.S.C. § 1983 and 28 U.S.C. § 1343. The denial of the preliminary injunction does not dismiss appellants' constitutional claims, but was mandated by the limits of the district court's jurisdiction.

AFFIRMED.