

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-30676  
Conference Calendar

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MILDRED BARROIS,

Plaintiff-Appellant,

versus

GOUX ENTERPRISES, INC., doing business as  
Pontchartrain Health Centre,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 98-CV-175-D  
- - - - -

April 19, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:\*

Mildred Barrois appeals the district court's sua sponte dismissal of her complaint for lack of subject-matter jurisdiction. Barrois, a Louisiana citizen, alleged that Goux Enterprises, which operated a nursing home in Mandeville, La., mistreated her since-deceased husband, Victor, while he resided at the nursing home and that Goux "blocked" her application to the Social Security Administration to become Victor's "representative payee." The district court did not err in holding that it lacked subject-matter jurisdiction over Barrois's

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

claims. See FED. R. CIV. P. 12(h)(3). Inasmuch as she was raising a claim regarding Social Security benefits, Barrois did not invoke the federal-question jurisdiction of the district court because she failed to demonstrate that she had exhausted administrative remedies provided the Social Security Administration. See Paul v. Shalala, 29 F.3d 208, 210 (5th Cir. 1994). Moreover, Barrois has not invoked the diversity jurisdiction of the court because she has failed to sustain her burden of proving that complete diversity exists. See Getty Oil Corp., Div. of Texaco, Inc. v. Insurance Co. of North Am., 841 F.2d 1254, 1258-59 (5th Cir. 1988); 28 U.S.C. § 1332.

Because this appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2. This is Barrois' second frivolous lawsuit and appeal involving the same subject matter. Accordingly, we caution Barrois that any further suits or appeals involving these matters will result in sanctions.

APPEAL DISMISSED; SANCTION WARNING ISSUED.