

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-40348
Conference Calendar

ADRON P. BRAINERD,

Plaintiff-Appellant,

versus

JOE J. SAWYER,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-01-CV-532

October 29, 2002

Before DeMOSS, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Adron P. Brainerd has appealed the district court's judgment dismissing his complaint for failing to satisfy the amount-in-controversy requirement of 28 U.S.C. § 1332. A district court may dismiss an action sua sponte for lack of subject-matter jurisdiction. See FED. R. CIV. P. 12(h)(3). The district court's order of dismissal is reviewed de novo. Musslewhite v. State Bar of Texas, 32 F.3d 942, 945 (5th Cir. 1994).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Brainerd does not dispute the district court's conclusion that the amount in controversy does not exceed \$75,000. Instead, he complains that the district court did not permit him to amend his complaint to cure the defect in his jurisdictional allegations. Brainerd attempted to file an amended complaint after the district court entered its judgment, but Brainerd's pleadings were ordered unfiled as they were not in compliance with the local rules. Brainerd did not attempt in the district court to cure the defects in his pleadings and does not explain on appeal why the district court abused its discretion by striking the pleadings. See Clark v. Tarrant County, 798 F.2d 736, 747 (5th Cir. 1986) (standard of review). Moreover, Brainerd does not suggest in his brief what facts could have been alleged to show that the amount in controversy exceeded \$75,000. The appeal is frivolous and must be

DISMISSED.