IN THE UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 94-11076
Summary Calendar

EDWARD H. MINOR,

Plaintiff-Appellant,

VERSUS

STATE OF TEXAS, ET AL,

Defendants-Appellees.

Appeal from the United States District Court
For the Northern District of Texas
(3:93 CV 0883 X)

(July 5, 1995)

Before REYNALDO G. GARZA, SMITH and WIENER, Circuit Judges.

PER CURIAM:*

Plaintiff-Appellant Edward H. Minor proceeding pro se filed the suit before us on May 6, 1993 in the United States District

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*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Court for the Northern District of Texas for the alleged misconduct on the part of every person who was either a defendant, attorney, or judge in a civil lawsuit filed by him on June 30, 1992 in Dallas County Court at Law. Minor alleges in his suit that the defendants violated 42 USC Section 1981 and his Fifth, Sixth and Fourteenth Amendment rights and he sought $25,000,000 in damages.

The suit filed by Minor against Allstate arose out of Allstate Insurance Company's refusal to settle Minor's claim under a homeowner's policy due to Minor's repeated refusal to submit to an examination under oath concerning his alleged loss as required in the policy. In the suit before us Edward H. Minor alleged a wide-ranging list of procedural errors on the part of two state-court judges who according to him, violated several provisions of the United States Constitution. Minor also sued Allstate's counsel of record in the state-court litigation claiming that they attempted to create bias against him because he was acting pro se in the instant litigation. The defendant Judge Day, in the state court's suit gave Minor 60 days in which to appear, and under oath state what his claim on the policy was. When Minor refused to comply his case against Allstate was dismissed.

Minor sought recusal of Judge Day because he demonstrated apparent bias and prejudice. In the present suit he is suing Judge McDowell who presided over the recusal proceedings claiming that he was prejudiced against him because he set the motion for recusal for hearing untimely and only after Allstate requested that it be set for hearing. He also claims that Judge McDowell did not

distribute copies of orders and notices to him. Minor sued the State of Texas claiming that through its Commission on Judicial Conduct, it had dismissed his complaint against Judge Day, despite evidence that Judge Day had blatantly disregarded various rules of Texas Civil Procedure and the Fifth, Sixth and Fourteenth Amendments, in violation of his constitutional rights. He made no specific allegations against Dallas County. He sued Allstate and sued some of its employees, and its attorneys Fisk & Fielder as a firm and individually because they were all acting in a conspiracy against him because he was acting pro se and was black.

The Court below granted each of the defendant's motions to dismiss under Fed.R.Civ.P. 12(b)(6). He dismissed Judges Day and McDowell on the grounds that they were entitled to absolute judicial immunity. The court also determined that Minor's constitutional claims against Allstate, its employees and its attorneys should be dismissed because none were state actors and Minor had not alleged any conduct by the private defendants that was cognizable under Section 1981. He dismissed Dallas County on the grounds that Minor had not made any specific allegations against the County and dismissed the State of Texas on Eleventh Amendment grounds.

If the District Court below had had jurisdiction over this case, all of the dismissals under Fed.R.Civ.P. 12(b)(6) would have been upheld. However, the court should have dismissed this case for lack of subject-matter jurisdiction under the Rooker-Feldman doctrine. Pursuant to the rule established in Rooker v. Fidelity

Trust Co., 263 U.S. 413, 416 (1923), no court of the United States other than the Supreme Court may entertain a proceeding to reverse or modify a final state-court judgment because the jurisdiction of the district courts is strictly original and review of such determinations would constitute an exercise of appellate jurisdiction. In District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482-87 (1983), the Supreme Court recognized an exception to the rule in Rooker, when a general challenge is made to the constitutionality of a state statute. The Feldman exception does not apply, however, when the constitutional claim was raised and decided in the state court, such claim being "inextricably intertwined" with the state-court judgment.

Our court in Hale v. Harney, 786 F.2d 688 (5th Cir. 1986), a civil rights case that originated in a state-court divorce lawsuit, was faced with the very question before us. Quite similar to Minor's contentions the plaintiff made "vague allegations of conspiracy" in bringing his civil rights action concerning events that had transpired in the related state-court proceeding.

Just as our court called the action in that case "palpably frivolous" and affirmed the trial court's dismissal of the action, we also do the same. The case before us was actually an appeal from the judgment in the state court against Minor. Minor's recourse was with the state appellate courts and thereafter the United States Supreme Court on application for writ of certiorari, not by the complaint filed here. The district court's dismissal should be affirmed on the ground that it lacked jurisdiction to

review Minor's claims. Sojourner T. v. Edwards, 974 F.2d 27, 30 (5th Cir. 1992), cert. denied, 113 S.Ct. 1414 (1993), and Mangaroo v. Nelson, 864 F.2d 1202, n.2 (5th Cir. 1989), both holding that an appellate court may affirm a judgment on any basis supported by the record. The dismissal of this cause of action in its entirety is AFFIRMED.