

37 Fed.Appx. 87

This case was not selected for publication in the Federal Reporter.

Not for Publication in West's Federal Reporter See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also Fifth Circuit Rules 28.7, 47-5.3, 47-5.4. (Find CTA5 Rule 28 and Find CTA5 Rule 47)

United States Court of Appeals,
Fifth Circuit.

Jake AYERS, Jr, Etc; et al. Plaintiffs Jake Ayers, Jr, Private Plaintiffs Plaintiff-Appellant Lillie B Ayers; Leola Blackmon; Randolph Walker; Henry Bernard Ayers; Dr Ivory Phillips; Approximately 4,000 Petitioners, Affiants, Parties In Interest And Otherwise Participants In The Ayers Controversy, also known as Lillie B Ayers Private Plaintiffs Appellants

v.

Ronnie MUSGROVE, Governor, State of Mississippi Defendant-Appellee Board Of Trustees Of State Institution Of Higher Learning; Delta State University; Mississippi State University; University Of Southern Mississippi; University Of Mississippi; Mississippi University For Women, Appellees.

v.

Louis Armstrong, Movant-Appellant.

No. 01-60969.

|
Summary Calendar.

|
April 23, 2002.

Appeal from the United States District Court for the Northern District of Mississippi, 4:75-CV-9-B.

Before KING, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

Opinion

PER CURIAM:*

Footnotes

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent

*1 Appellants are members of a class certified under Federal Rule of Civil Procedure 23(b)(2). FED. R. CIV. PRO. 23(b)(2). After other members of the class proposed a settlement agreement but before the district court approved or rejected that agreement, Appellants filed two motions: (1) Motion For Injunctive Relief Against State of Mississippi For Non-Compliance With Mandate of Court Or Stay Or Injunction Pending Appeal and (2) Second Motion For Injunctive Relief Against State of Mississippi For Non-Compliance With Mandate of Court Or Stay Or Injunction Pending Appeal. The district court entered an order dismissing Appellants' first motion on the ground that Appellants lacked standing to act separate and apart from the class. The district court entered a second order denying Appellants' second motion on the ground that the motion was moot. Appellants appeal these orders.

We dismiss Appellants' appeal because the district court's orders are not currently appealable. First, the district court's orders are not appealable under 28 U.S.C. § 1291 because neither order constitutes a final decision "that ends the litigation on the merits and leaves nothing more for the court to do but execute the judgment." *Green Tree Fin. Corp.-Alabama v. Randolph*, 531 U.S. 79, 86, 121 S.Ct. 513, 148 L.Ed.2d 373 (2000) (internal citations and quotations omitted). Second, the district court's orders are not appealable under 28 U.S.C. § 1292(a)(1) as denials of injunctions because the orders do not command action from any party, do not threaten contempt for non-action, and do not accord substantive relief to any party. See *Police Ass'n of New Orleans v. City of New Orleans*, 100 F.3d 1159, 1166 (5th Cir.1996). Finally, the district court's orders are not appealable as collateral orders because they do not resolve questions separate from the merits and are effectively reviewable on appeal from the final judgment. See *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 469 & n. 12, 98 S.Ct. 2454, 57 L.Ed.2d 351 (1978).

Appeal DISMISSED. Costs shall be borne by Appellants.

All Citations

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except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.