

October 22, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-30608
Conference Calendar

PAMELA SHIRLEY,

Plaintiff-Appellant,

versus

MARILYN ELAYNE DANIEL,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 03-CV-1548-S

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

PER CURIAM:*

Pamela Shirley, a Louisiana resident and a non-prisoner proceeding pro se, has filed a motion to proceed in forma pauperis (IFP) on appeal, challenging the district court's certification that her appeal was not taken in good faith pursuant to Baugh v. Taylor, 117 F.3d 197, 199-202 (5th Cir. 1997). Shirley argues that the district court was not correct in its perception of the primary issue in the complaint. The federal courts have a long-standing policy of abstaining

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

from the exercise of diversity jurisdiction in cases involving intrafamily relations, including child custody actions, known as the domestic relations exception. Congleton v. Holy Cross Child Placement Agency, Inc., 919 F.2d 1077, 1078 (5th Cir. 1990).

Although Shirley argues that her allegations do not place her case within this exception, the district court did not err in construing her complaint as essentially concerning the custody of her children.

The district court's certification that Shirley's appeal is not taken in good faith is upheld, Shirley's motion for IFP is DENIED, and this appeal is DISMISSED AS FRIVOLOUS. See Baugh, 117 F.3d at 202 and n.24.