

August 17, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-31045
Conference Calendar

ALBERT RONNIE BURRELL; MICHAEL RAY GRAHAM, JR.,

Plaintiffs-Appellees,

versus

TOMMY ADKINS; ET AL.,

Defendants,

TOMMY ADKINS; DAN J. GRADY III; ROBERT LEVY,

Defendants-Appellants.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 01-CV-2679

Before HIGGINBOTHAM, DAVIS, and PICKERING, Circuit Judges.

PER CURIAM:*

The appellants ask this court to overturn a discovery order by the magistrate judge, which was affirmed by the district court, and which allowed discovery to proceed in the underlying case while the appellants' interlocutory appeal in Burrell v. Adkins, No. 03-30487, was pending. Vacating the challenged discovery order would allow a prior stay of discovery by the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

district court to remain in effect, pending a final decision by this court in No. 03-30487. The appellees have filed a motion to dismiss this appeal for lack of subject matter jurisdiction.

Because we have issued a final decision in Burrell v. Adkins, No. 03-30487 (5th Cir. April 15, 2004), we DISMISS this appeal as MOOT. See City of Erie v. Pap's A.M., 529 U.S. 277, 287 (2000); United States Parole Comm'n v. Geraghty, 445 U.S. 388, 395-96 (1980). The appellees' motion to dismiss the appeal for lack of jurisdiction is, for this reason, GRANTED.

APPEAL DISMISSED; MOTION TO DISMISS GRANTED.