

December 9, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-60386
Conference Calendar

GARY LEE OLSON,

Plaintiff-Appellant,

versus

WILLIE J. HUNTLEY, JR.,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 5:01-CV-352-BrS

Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:*

Gary Lee Olson appeals the district court's dismissal of his civil fraud lawsuit against his former attorney, Willie J. Huntley, Jr., in which Olson alleged that Huntley had misappropriated a \$2000 cash bond posted by Olson in connection with a criminal matter. Olson argues that the district court erred in dismissing the lawsuit on the basis of improper venue, but the record reflects that the district court dismissed the suit for lack of subject matter jurisdiction. The district court

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

did not err in dismissing the suit; the case did not present a federal question and the amount in controversy was insufficient to meet the requirements of diversity jurisdiction. See 28 U.S.C. §§ 1331, 1332.

This appeal is without arguable merit and is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983).

Because the appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2.

APPEAL DISMISSED.