UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 96-21109

WINNIE PIPELINE COMPANY.;
SOUTHEASTERN MARKETING COMPANY.,

Plaintiffs-Appellees,

versus

KENNETH PATTERSON, ET AL.,

Defendants,

KENNETH PATTERSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas

(H-93-CV-2677)

April 10, 1998

Before POLITZ, Chief Judge, REYNALDO G. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:*

Kenneth Patterson appeals the denial of his motion to dismiss, an injunction prohibiting him from prosecuting his wrongful execution lawsuit and the retention of certain funds in the registry of the court. We first note that we lack appellate

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

jurisdiction to review the trial court's refusal to dismiss pendent state law claims in a setting as is here presented.[2] Further, subsequent to the issuance of the injunction, Patterson's wrongful execution suit was transferred to the Southern District of Texas and consolidated with the instant case, thus mooting the appealed injunction.[3] Finally, no justiciable issue exists as to the retention of funds.

For lack of jurisdiction, this appeal must be and is DISMISSED.

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[2]See **Woods v. Smith**, 60 F.3d 1161 (5th Cir. 1995)

[3]See **Jarvis H. Christian College v. Exxon Corp**. 845 F.2d 523 (5th Cir. 1988).