

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-60715

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ILLINOIS CENTRAL RAILROAD COMPANY,

Plaintiff-Appellant--Cross-Appellee,

CSX TRANSPORTATION, INC.; BURLINGTON NORTHERN RAILROAD CO.; THE  
KANSAS CITY SOUTHERN RAILWAY

Intervenors Plaintiffs-Appellants--Cross-Appellees

VERSUS

KIRK FORDICE, Governor, State of Mississippi in his official  
capacity; MIKE MOORE, Attorney General of the State of  
Mississippi in his official capacity,

Defendants-Appellees--Cross-Appellants

RANKIN COUNTY, MISSISSIPPI; KEN DICKERSON, Sheriff of Rankin  
County, Mississippi, in his official capacity,

Defendants-Appellees.

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

(3:96-CV-486WS)

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November 25, 1998

Before REYNALDO G. GARZA, STEWART, and PARKER, Circuit Judges.

PER CURIAM\*:

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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this opinion should not be published and is not precedent except  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.

Upon consideration of the briefs, argument of counsel, and the record below, the court determines that the judgment of the district court should be affirmed for the reason that the definition of "motor vehicle" under the Mississippi Implied Consent Law does not include trains. We do not reach the issue of preemption as it is prudential to avoid constitutional questions when possible. We further cannot reach any constitutional issues under the Fourth Amendment relating to the Mississippi Implied Consent Law as such a challenge was not made.

AFFIRMED.