

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-11154  
Conference Calendar

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JACK W. BORNINSKI,

Plaintiff-Appellant,

versus

TOMI J. SHEHAN; MARILEA LEWIS,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:99-CV-1551-R  
- - - - -

June 13, 2000

Before JOLLY, DAVIS, and STEWART, Circuit Judges.

PER CURIAM:\*

Jack W. Borninski appeals from the district court's dismissal of his civil-rights lawsuit against Judge Marilea Lewis and Tomi J. Shehan for lack of subject-matter jurisdiction and on grounds of judicial immunity. We review the dismissal de novo. See Robinson v. TCI/U.S. West Comm. Inc., 117 F.3d 900, 904 (5th Cir. 1997)(subject-matter jurisdiction); Morin v. Caire, 77 F.3d 116, 120 (5th Cir. 1996) (immunity).

A review of the record shows that Lewis was entitled to absolute judicial immunity against the instant 42 U.S.C. § 1983

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

lawsuit and that Shehan was not liable under § 1983 because he was not a state actor. See Boyd v. Biggers, 31 F.3d 279, 284-85 (5th Cir. 1994)(judicial immunity); Mills v. Criminal Dist. Court #3, 837 F.2d 677, 679 (5th Cir. 1988)(private attorneys are not state actors). Borninski's appeal lacks arguable merit. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983).

Accordingly, we DISMISS his appeal as frivolous. See 5TH CIR. R. 42.2.