

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11029

MICHAEL J. MONCRIEF, Etc.; ET AL,
Plaintiffs,

v.

W.A. "TEX" MONCRIEF, JR., Etc.; ET AL,
Defendants.

W.A. "TEX" MONCRIEF, JR.; CHARLES B. MONCRIEF;
RICHARD W. MONCRIEF; MONTEX DRILLING COMPANY,

Third Party Plaintiffs-Appellees,

v.

BILLY W. JARVIS,

Third Party Defendant-Appellant,

v.

UNITED STATES OF AMERICA,

Appellee.

Appeal from the United States District Court
for the Northern District of Texas
(4:98-CV-528-E)

September 9, 1999

Before KING, Chief Judge, STEWART, Circuit Judge, and ROSENTHAL,
District Judge*.

* District Judge of the Southern District of Texas, sitting
by designation.

PER CURIAM:**

The court has jurisdiction over this appeal. See City of Waco v. United States Fidelity & Guaranty Co., 293 U.S. 140 (1934).

On brief and at length at oral argument, appellant claimed that he was denied the opportunity in the district court to develop the necessary facts. That argument is devoid of merit. The district court's Order Granting Motion for Reconsideration and Clarifying Order entered July 7, 1998 specifically advised that "[i]f a party wishes to assert a right to an evidentiary hearing or request further discovery on an issue, he may do so by filing an appropriate written request in a timely fashion." If, indeed, appellant failed to take advantage of that invitation, the problem is of his own making.

The Order of the District Court entered August 3, 1998 denying appellant's Petition for Certification is affirmed for substantially the reasons stated in that Order.

AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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