

Unpublished Disposition

244 F.3d 138

NOTICE: THIS IS AN UNPUBLISHED OPINION.

(The Court's decision is referenced in a "Table of Decisions Without Reported Opinions" appearing in the Federal Reporter. Use FI CTA5 Rule 47 for rules regarding the citation of unpublished opinions.)

United States Court of Appeals,
Fifth Circuit.

Aimuumwosa Johnbull IGBINOSUN; Jim & Lu Enterprises, Inc., doing business as Jim & Lu's Grocery,
Plaintiffs-Appellants,

v.

W.T. WINFIELD; E.J. Rhodes; Alcoholic Beverage Control Board, of the City of Baton Rouge & East Baton Rouge Parish; City of Baton Rouge; J. Marcus Wright; Sterling Anthony; Ed Campenella; Todd Cole; Leroy Colter; Watson Tebo; Jerry Arbour; Mike Walker; Milton Lee, Defendants-Appellees.

No. 98-31079.Summary CalendarDec. 15, 2000.

Appeal from the United States District Court for the Middle District of Louisiana USDC No. 98-CV-450-A.

Before REAVLEY, DeMOSS and BENAVIDES, Circuit Judges.

Opinion

PER CURIAM:*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

I** Aimuumwosa Johnbull Igbinosun and Jim & Lu's Enterprises, Inc. ("Jim & Lu's") appeal the district court's judgments dismissing their civil rights challenges under 42 U.S.C. § 1983 as barred from federal review under the *Parratt/Hudson doctrine and the court's dismissal of their challenges to the constitutionality of Baton Rouge City Ordinance § 1:152(10) as barred by the *Younger**** abstention doctrine. We have reviewed the record, the briefs of the parties, and the applicable law, and we find no reversible error.

- ** *Parratt v. Taylor*, 451 U.S. 527, 541-44, 101 S.Ct. 1908, 68 L.Ed.2d 420 (1981), *overruled on other grounds*, *Daniels v. Williams*, 474 U.S. 327, 106 S.Ct. 662, 88 L.Ed.2d 662 (1986); *Hudson v. Palmer*, 468 U.S. 517, 533, 104 S.Ct. 3194, 82 L.Ed.2d 393 (1984).

- *** *Younger v. Harris*, 401 U.S. 37, 45, 91 S.Ct. 746, 27 L.Ed.2d 669 (1971).

Jim & Lu's filed a state action in June 1998 raising the same "important state interest" issues they raised in their federal action: a challenge to the constitutionality of the city ordinance; alleged due process violations; and arbitrary, capricious, and unauthorized denial of their liquor license. Although the state action was filed subsequent to the federal proceedings, the state proceedings were pending when the district court ordered the parties to brief the issue whether such proceedings were ongoing so that the *Younger* abstention was applicable. The district court did not abuse its discretion by invoking the *Younger* abstention to dismiss Jim & Lu's federal challenge to the constitutionality of § 1:152(10). See *Louisiana Debating and Literary Ass'n v. City of New Orleans*, 42 F.3d 1483, 1489-90 (5th Cir.1995).

Additionally, based upon the allegations in Jim & Lu's complaint, the district court properly determined that the alleged illegal conspiracy among the defendants could not have been predicted or countered by the state "predeprivation," and that the alleged arbitrary actions of the defendants was unauthorized. The court also determined correctly that Jim & Lu's had access to adequate postdeprivation remedies under state law pursuant to La.Rev.Stat. Ann. § 33:4788, which provides for appeals from the suspension or revocation of permits, including alcoholic beverage control boards' revocations of liquor licenses. *Id.* Under *Parratt/Hudson* then, Jim & Lu's cannot raise their civil rights claims in the instant § 1983 suit. See

Sheppard v. Louisiana Bd. of Parole, 873 F.2d 761, 763 (5th Cir.1989) (quoting *Hudson*, 468 U.S. at 533-35, 104 S.Ct. 3194).

AFFIRMED.

Parallel Citations

2000 WL 1901695 (C.A.5 (La.))

End of Document

© 2011 Thomson Reuters. No claim to original U.S. Government Works.