



exclusive jurisdiction over such matters. *Leopard v. NBD Bank*, 384 F.3d 232, 237 (6<sup>th</sup> Cir. 2004). Because the district court lacks jurisdiction, the plaintiff may not remove his pending state probate action to the district court.

#### **42 U.S.C. § 1983**

To state a claim under § 1983, the plaintiff must allege and show: 1) that he was deprived of a right secured by the Constitution or laws of the United States; and 2) that the deprivation was caused by a person acting under color of state law. *Parratt v. Taylor*, 451 U.S. 527, 535 (1981)(overruled in part by *Daniels v. Williams*, 474 U.S. 327, 330 (1986)); *Flagg Bros. v. Brooks*, 436 U.S. 149, 155-56 (1978); *Black v. Barberton Citizens Hosp.*, 134 F.3d 1265, 1267 (6<sup>th</sup> Cir. 1998). The Probate Court is the sole defendant to this action. Courts are not persons for purposes of § 1983. *Mumford v. Zieba*, 4 F.3d 429, 435 (6<sup>th</sup> Cir. 1993). Therefore, the plaintiff cannot establish a *prima facie* case under § 1983.

#### **42 U.S.C. § 1985(3)**

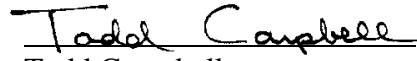
Title 42 U.S.C. § 1985 consists of three parts. Section 1985(3) pertains to conspiracies aimed at interfering with rights that are protected against private as well as official encroachment, *Carpenters and Joiners of America, Local 610, AFL-CIO, et al. v. Scott*, 463 U.S. 825, 833 (1983), based on some racial, or otherwise class-based, invidiously discriminatory animus, *Griffin v. Breckenridge*, 403 U.S. 88, 102 (1971). The plaintiff does not allege, nor can it be liberally construed from the complaint, that he has been discriminated against for racial and/or class-based reasons. Consequently, the plaintiff has failed to make a *prima facie* showing under § 1985(3).

#### **Conclusion**

The complaint lacks an arguable basis in law or fact. Therefore, this action will be dismissed

as frivolous. *See Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Brown v. Bargery*, 207 F.3d 863, 866 (6<sup>th</sup> Cir. 2000); *see also Lawler v. Marshall*, 898 F.2d 1196, 1198-99 (6<sup>th</sup> Cir. 1990).

An appropriate Order will be entered.

  
Todd Campbell  
United States District Judge