Filed in The District Court of Travis County, Texas

CAUSE NO. D-1-GN-07-001256

JUN 15 2007 At <u>/0:0/A-</u> M Amalia Rodriguez-Mendoza, Cleri

BARRY DWAYNE MINNFEE
Plaintiff,

\$

V.

TRAVIS COUNTY

TRAVIS COUNTY

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RANDALL C. SIMS, DISTRICT ATTORNEY
AND DON CLEMMER, DEPUTY ATTORNEY
GENERAL
Defendants,

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200TH JUDICIAL DISTRICT

ORDER

Having reviewed the pleadings and applicable law relevant to Defendant's Motion to Dismiss and to Declare Plaintiff a vexatious litigant, the Court makes the following findings and orders:

- 1. Defendants' Motion is filed under Ch 11, 13 & 14, Texas Civil Practice & Remedies Code.
- A claim that has no arguable basis in law or fact may be dismissed as frivolous before or after service of process *sua sponte* and without a hearing. 14.002(a) (c) 13.001 (c) 14.002(a) (c) TEX. CIV. PRAC. & REM. CODE *Black v. Jackson*, 82 S.W. 3d 44, 53 (Tex. App—Tyler 2002, no pet.); *In Re* Wilson, 932 S.W. 2d 263, 265 (Tex. App.—El Paso 1996, no writ); *Thomas v. Brown*, 927 S.W. 2d 122, 127 (Tex. App.—Houston [14th Dist.] 1996, writ den.).
- 3. The Court finds that Plaintiff's suit has no arguable bases in fact or law and is frivolous within the meaning of 13.001(a)(2), (b)(2) and 14.003(a)(2), (b) (2) TEX. CIV. PRAC. & REM. CODE.



- In the seven years preceding the filing of Defendants' motion, Plaintiff prosecuted in propria 4. persona at least five litigations finally determined adversely to him and determined to be groundless. There is not a reasonable probability that the Plaintiff will prevail in the present litigation. 11.054 (1) TEX. CIV. PRAC. & REM. CODE.
- 5. The Plaintiff, Barry Dwayne Minnfee is a vexatious litigant. Plaintiff is ordered prohibited from filing new litigation in a Court in the State of Texas without obtaining permission from the local administrative judge of the court in which Plaintiff intends to file the litigation. 11.101. 11.102, Tex. Civ. Prac. & Rem. Code.

It is ORDERED that the above styled and numbered cause has no arguable basis in law or fact is dismissed as frivolous.

It is further ORDERED that Plaintiff be and is prohibited from filing any new litigation in any Texas Court without obtaining permission from the local administrative judge of that Court as provided in 11.102 TEX. CIV. PRAC. & REM. CODE.

SIGNED on this 15 day of _____

I, AMALIA RODRIGUEZ-MENDOZA, District Clerk. Travis County, Texas, do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of

AMALIA RODRIGUEZ-MENDOZA

By Depute L. Topical

