

CAUSE NO. CIV32384

MAURICE MITCHELL <i>Plaintiff,</i>	§ § § § § § § §	IN THE DISTRICT COURT OF POLK COUNTY, TEXAS 411th JUDICIAL DISTRICT
v. TEXAS DEPARTMENT OF CRIMINAL JUSTICE, THE STATE OF TEXAS <i>Defendants.</i>		

**ORDER DISMISSING CLAIMS AGAINST THE TEXAS DEPARTMENT OF
 CRIMINAL JUSTICE (TDCJ) AND THE STATE OF TEXAS AND DECLARING
 MAURICE MITCHELL A VEXATIOUS LITIGANT PURSUANT TO TEX. CIV
 PRAC. & REM CODE §14.003(b)(2), 11.054(1)(A) AND (C)**

Before this Court came to be considered defendants, the TEXAS DEPARTMENT OF CRIMINAL JUSTICE (TDCJ) AND THE STATE OF TEXAS's motions to dismiss and to declare Maurice Mitchell a vexatious litigant pursuant to Tex. Civ. Prac. & Rem. Code §§14.003(b)(2) and 11.054(1)(A), (C). The Court has reviewed the pleadings, the Motion to Dismiss, applicable authority, and permitted Mitchell a reasonable opportunity to respond. The Court concludes Defendants' Motion should be and is GRANTED.

The Court finds that the allegations in Plaintiff's Petition do not set forth sufficient facts to support a claim for theft or a violation of due process under federal or state law. The Court further finds that Plaintiff's claims have no arguable basis in law and are barred by sovereign immunity. The Court GRANTS Defendants' Motion to Dismiss, enters a take nothing DISMISSAL judgment and assesses all costs of suit against Plaintiff. The Court further finds that, pursuant to Tex. Civ. Prac. & Rem. Code, §10.001 (2) and Tex. R. Civ. Proc. Rule 13, that this suit is not "warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law."

The Court concludes that there is not a reasonable probability that the plaintiff will prevail in the litigation against defendants and that plaintiff, in the seven-year period immediately preceding the date the defendants made their motion under § 11.051, has commenced, prosecuted, or maintained litigation as a pro se litigant, other than in a small claims court, eleven litigations that have been finally determined adversely to the plaintiff or determined by a trial or appellate court to be frivolous or groundless under state or federal laws or rules of procedure as required by 11.054(1)(A), (C).

Accordingly, the Court adjudicates Maurice Mitchell to be a vexatious litigant and ORDERS that he be and is prohibited from filing new litigation in a Texas, district court, county court, county court at law court or justice of the peace court without first obtaining permission from the local administrative judge. See Tex. Civ. Prac. & Rem. Code §11.102. The administrative judge will grant permission to file only if the litigation appears to have merit and is not filed for purposes of harassment or delay, and may condition permission on the furnishing of security. The Court admonishes Maurice Mitchell that if he fails to obey this order, he may be sanctioned or found in contempt and subject to punishment. The Court ORDERS the Polk County District Court Clerk, County Court Clerk and Justice of the Peace clerks to refuse to file any new litigation by Maurice Mitchell unless he first obtains written permission from a local administrative judge.

The Court further finds that Mitchell has previously filed an action to which this chapter applies and that a final order has been issued that affirms the action was dismissed as frivolous as set out in Tex. Civ. Prac. & Rem. Code §14.007(a). As shown by Exhibit 1 attached to Defendants' motion to dismiss, *Maurice Mitchell v. State of Texas*, Bowie County District Court No. 17C1136005 was dismissed as frivolous on November 30, 2017. The Court further finds that Exhibits 4 and 5 show that additional suits filed by Mitchell were dismissed as frivolous and

Exhibit 11 includes a finding that "Mitchell is a 'three strikes' inmate who is barred from proceeding in forma pauperis pursuant to section 1915(g)". Accordingly, the court orders that all costs, fees and expenses be assessed against Maurice Mitchell pursuant to Tex. Civ. Prac. & Rem. Code §14.006, which states:

- (a) A court may order an inmate who has filed a claim to pay court fees, court costs, and other costs in accordance with this section and Section 14.007. The clerk of the court shall mail a copy of the court's order and a certified bill of costs to the department or jail, as appropriate.
- (b) On the court's order, the inmate shall pay an amount equal to the lesser of:
 - (1) 20 percent of the preceding six months' deposits to the inmate's trust account; or
 - (2) the total amount of court fees and costs.

Pursuant to Tex. Civ. Prac. & Rem. Code §14.007(b), the Court assesses as costs any expenses incurred, including expenses of service of process, postage, and transportation, housing, or medical care incurred in connection with the appearance of Maurice Mitchell in the court for any proceeding. The court further directs the clerk of the court to mail a copy of the court's order and a certified bill of costs to TDCJ wherein it and Maurice Mitchell are ordered to comply with Tex. Civ. Prac. & Rem. Code 14.006(c), (d) and (e):

- (c) In each month following the month in which payment is made under Subsection (b), the inmate shall pay an amount equal to the lesser of:
 - (1) 10 percent of that month's deposits to the trust account; or
 - (2) the total amount of court fees and costs that remain unpaid.
- (d) Payments under Subsection (c) shall continue until the total amount of court fees and costs are paid or until the inmate is released from confinement.
- (e) On receipt of a copy of an order issued under Subsection (a), the department or jail shall withdraw money from the trust account in accordance with Subsections (b), (c), and (d). The department or jail shall hold the money in a separate account and shall forward the money to the court clerk on the earlier of the following dates:

(1) the date the total amount to be forwarded equals the total amount of court fees and costs that remains unpaid; or

(2) the date the inmate is released.

(f) The inmate shall file a certified copy of the inmate's trust account statement with the court. The statement must reflect the balance of the account at the time the claim is filed and activity in the account during the six months preceding the date on which the claim is filed. The court may request the department or jail to furnish the information required under this subsection.


(g) An inmate may authorize payment in addition to that required by this section.

The Court further warns that willful disobedience to any requirements of this order may result in a finding of contempt of court. It is so ORDERED.

Signed this 28 day of July 2021
2019.



PRESIDING JUDGE

BY  ROBERT J. CHRISTIAN, JR.
DISTRICT CLERK
POLK COUNTY, TEXAS

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FILED FOR RECORD