

FILED
at 12:03 o'clock P M.

DEC 12 2018

Ronda Bencher
Clerk of District Court Brazoria Co., Texas
BY _____ DEPUTY

NO. 84023-CV

IN RE COMMITMENT OF

RICHARD A. DUNSMORE

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IN THE DISTRICT COURT OF

BRAZORIA COUNTY, TEXAS

412th JUDICIAL DISTRICT

ORDER ADJUDICATING RICHARD ALEXANDER DUNSMORE A VEXATIOUS LITIGANT AND PRE-FILING ORDER

On December 12, 2018, this Court having held a hearing at which it heard Defendants' Motion to Declare Richard Alexander Dunsmore a Vexatious Litigant Pursuant to Chapter 11, Texas Civil Practice and Remedies Code and their request for a Pre-Filing Order. After reviewing the record, the evidence presented, the arguments of the parties, and the applicable authorities, the Court FINDS that Defendants' motion should be granted and a pre-filing order should be issued.

The Vexatious Litigant Statute

Chapter 11 of the Texas Civil Practice and Remedies Code governs suits brought by vexatious litigants and specifies that a Court may, on defendant's motion or *sua sponte*, designate a party as a vexatious litigant. See TEX. CIV. PRAC. & REM. CODE § 11.101.

A Court may declare a party to be a vexatious litigant if there is not a reasonable probability that he will prevail in litigation and the party has a history of filing or repeatedly re-litigating unsuccessful or frivolous suits. TEX. CIV. PRAC. & REM. CODE § 11.054. Specifically, during the seven year period immediately preceding the date the defendant files its motion to declare the plaintiff a vexatious litigant, the plaintiff has "commenced, prosecuted, or maintained at least five litigations as a pro se litigant" that have been "finally determined adversely to the

plaintiff” or have been determined “by a trial or appellate court to be frivolous or groundless under state or federal law or rules of procedure.” *See Id.* Finally, a court may find a plaintiff to be a vexatious litigant if the party has previously been declared a vexatious litigant by state or federal in an action or proceeding based on the same or substantially similar facts, transaction, or occurrence. *See Id.*

No Reasonable Probability of Prevailing in the Cause of Action

After reviewing the pleadings and evidence in the case, the Court FINDS there is no reasonable probability that Mr. Dunsmore will prevail in this case.

Mr. Dunsmore's Litigation History

The State has provided the Court with legally sufficient evidence that, in the seven years prior to the filing of this suit, Mr. Dunsmore, as a *pro se* litigant, has commenced the following unsuccessful litigation.

DATE FILED	CAUSE NO.	STYLE	COURT	DISPOSITION
10/17/14	79144-I	<i>Dunsmore v. Hanley</i>	412th	Dismissed 03/18/15
03/13/14	76312-I	<i>Dunsmore v. Ortiz</i>	412th	Dismissed 05/06/15
05/14/14	77164-I	<i>Dunsmore v. Livingston</i>	412 th	Dismissed 05/06/15
03/16/15	80821-I	<i>Dunsmore v. Shelby</i>	412 th	Dismissed 06/17/15
03/16/15	80826-I	<i>Dunsmore v. Barrow</i>	412 th	Dismissed 06/17/15
01/31/16	78057-I	<i>Dunsmore v. Hightower</i>	412 th	Dismissed 02/02/16
11/10/15	84023-CV	<i>In Re: Dunsmore</i>	412th	Dismissed 02/02/18
06/27/17	92333-I	<i>Dunsmore v. OSCO</i>	412 th	Dismissed 02/02/18
08/14/17	01-17-00637-CV	<i>In Re: Dunsmore</i>	1 st COA	Writ denied 11/16/17
06/29/17	07-17-00223-CV	<i>Dunsmore v. OSCO.</i>	7 th COA	Dismissed WOJ ¹ 07/26/17
04/28/15	14-15-00383-CV	<i>Dunsmore v. Hightower</i>	14 th COA	Dismissed WOJ 10/01/15
04/28/15	14-15-00385-CV	<i>Dunsmore v. Livingstone</i>	14 th COA	Dismissed WOJ 10/01/15

¹ WOJ is an abbreviation for “want of jurisdiction.”

** Indicates that the appellate court dismissed the case for appellant’s failure to comply with the requirements of Chapter 14 of the Civil Practice and Remedies Code.

*** WOP is an abbreviation for “want of prosecution.”

07/07/15	14-15-00572-CV	<i>Dunsmore v. Barrow</i>	14 th COA	Dismissed ** 11/17/15
07/07/15	14-15-00573-CV	<i>Dunsmore v. Shelby</i>	14 th COA	Dismissed** 11/17/15
02/19/16	14-16-00131-CV	<i>Dunsmore v. U.T.</i>	14 th COA	Dismissed WOJ
12/03/12	4:12-CV-3521	<i>Dunsmore v. Wagner</i>	USDC-SDTX Houston	Dismissed –Failure to state a claim. 12/19/13
10/17/16	3:16-CV-301	<i>Dunsmore v. Davis</i>	USDC-SDTX Galveston	Dismissed –Failure to exhaust state remedies 10/25/16
04/07/16	3:16-CV-093	<i>Dunsmore v. TDCJ – Terrell Unit</i>	USDC-SDTX Galveston	Dismissed – WOJ 01/04/17
2014	14-20043	<i>Dunsmore v Wagner</i>	5 th Cir.	Dismissed –WOP 03/28/14
2016	16-41596	<i>Dunsmore v. TDCJ- Terrell Unit</i>	5 th Cir.	Dismissed – WOP 02/09/17
2016	16-41489	<i>Dunsmore v. Davis</i>	5 th Cir.	Dismissed – WOJ 09/06/17

The Court FINDS that, during the past seven year period Mr. Dunsmore has “commenced, prosecuted or maintained” substantially more than five litigations as a *pro se* litigant that have finally been determined adversely to him or have been found to be groundless or frivolous.

Finally, the Court FINDS Richard Alexander Dunsmore meets the criteria of a vexatious litigant.

ORDER

Accordingly, the Court ORDERS RICHARD ALEXANDER DUNSMORE adjudicated to be a vexatious litigant.

The Court ORDERS that Richard Alexander Dunsmore is prohibited from filing new litigation in any Texas court without first obtaining permission from the appropriate local administrative judge. See TEX. CIV. PRAC. & REM. CODE §11.101. Such permission shall be granted only if the litigation appears to have merit and is not filed for purposes of harassment or delay; such permission may also be conditioned on the furnishing of a security.

The Court also admonishes Richard Alexander Dunsmore that if he does file new litigation in violation of this order, that suit will be subject to dismissal, and he may be subject to sanctions. See TEX. CIV. PRAC. & REM. CODE §11.101(b).

Within 30 days of the date of this Order, the Court **ORDERS** the Brazoria County District Clerk to transmit a copy of this Order to:

The Office of Court Administration
(Attn: Judicial Information)
P.O. Box 12066
Austin, Texas 78711-2066
JudInfo@txcourts.gov

The Court **ORDERS** the Brazoria County District Clerk and the Brazoria County Clerk is to refuse the filing of any new litigation by Richard Alexander Dunsmore unless he first obtains written permission from the appropriate local administrative judge.

RICHARD ALEXANDER DUNSMORE is hereby **Notified** that he is subject to punishment for contempt if he fails to obey this Order. If found guilty of contempt, Richard Alexander Dunsmore may be punished by a fine of up to Five Hundred Dollars (\$500.00) and sentenced to six (6) months in jail.

Signed this date:
Angleton, Texas

December 12, 2018
at 12:03 P.M.



Lamar McCorkle
Judge Presiding