

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BARRY DWAYNE MINNFEE,
(TDCJ-CID #1300468)

Petitioner,

VS.

RICK THALER,

Respondent.

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CIVIL ACTION NO. H-12-1374

MEMORANDUM AND OPINION

The petitioner, Barry Dwayne Minnfee, seeks habeas corpus relief under 28 U.S.C. § 2254. This petition must be dismissed because Minnfee is barred from filing by outstanding sanctions and a preclusion order from the Fifth Circuit Court of Appeals.

Minnfee, a state inmate proceeding *pro se*, filed this § 2254 habeas petition on March 19, 2012. Minnfee appears to complain of inappropriate video surveillance within the prison. On-line research reveals that on May 2, 2005, Minnfee was convicted of robbery with bodily injury and sentenced to life imprisonment. (Cause Number 49,678-D). Since then, he has filed over 80 unsuccessful habeas and civil rights lawsuits in at least 4 states. He has been barred from proceeding *in forma pauperis* under the three-strikes provision of 28 U.S.C. § 1915(g). The United States Court of Appeals for the Fifth Circuit issued a sanction and preclusion order in *Minnfee v. Quarterman*, No. 07-50446 (5th Cir. 2007). The order imposed a \$100.00 monetary sanction against Minnfee for his continued abusive litigation tactics. The order also stated:

The Clerks of all Federal District Courts in this Circuit are directed to refuse to accept further pleadings of any kind from Minnfee, including notices of appeal, in previously filed suits or any new suit, unless he provides proof that he has paid the sanction. Even if

Minnfee provides proof that he has paid the sanction in full, he is warned that further frivolous filings will invite the imposition of additional sanctions which will include restrictions to his access to the Courts of this Circuit.

Id.

Minnfee does not contend that the \$100.00 sanction has been paid. A review of the Fifth Circuit docket for this case reveals that it has not been paid.

This case is dismissed under the June 6, 2007 sanction and preclusion order. Any and all pending motions are denied as moot. No certificate of appealability issues. The showing necessary for a certificate of appealability is a substantial showing of the denial of a constitutional right, *see Hernandez v. Johnson*, 213 F.3d 243, 248 (5th Cir. 2000) (citing *Slack v. McDaniel*, 429 U.S. 473, 483 (2000)), and Minnfee has not made the necessary showing.

SIGNED on May 16, 2012, at Houston, Texas.



Lee H. Rosenthal
United States District Judge