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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BRANDON FAVOR,)	Case No. CV 17-0165-JGB (JEM)
)	
Petitioner,)	ORDER TO SHOW CAUSE
)	
v.)	
)	
ANTHONY HARPER,)	
)	
Respondent.)	

On January 9, 2017, Brandon Favor filed the instant petition for a writ of habeas corpus by a person in state custody pursuant to 28 U.S.C. § 2254. This action is one of at least fifty cases Favor has filed since 2014 and at least fourteen he has filed since November 2016.

I. PRIOR PROCEEDINGS

On May 30, 2014, Favor filed a petition for a writ of habeas corpus by a person in state custody pursuant to 28 U.S.C. § 2254 in case number CV 14-4441-JGB (JEM) (“First Habeas Action”). Favor ultimately filed a first amended petition (“FAP”) in the First Habeas Action on August 25, 2014.

On October 21, 2016, the FAP was denied and the First Habeas Action was dismissed with prejudice.

1 As set forth more fully below, Favor is a repeat, serial litigant. He has filed at least fifty
2 actions directly in this district or that have been transferred to this Court by another district.
3 Except for the First Habeas Action, which was not facially frivolous, all of these actions have
4 been meritless and have not been resolved in his favor. It is clear that, going forward, Favor
5 will continue to abuse the judicial process and consume this Court's time and resources with
6 frivolous litigation.

7 Accordingly, the Court finds that it is appropriate to warn Favor that he may be deemed
8 a vexatious litigant. This Order places Favor on notice that the Court is considering a
9 vexatious litigant order that will impose pre-filing conditions upon him before he may file any
10 other civil complaint, IFP application, or habeas petition with this Court or file any document in
11 a case that is closed and final.

12 **II. APPLICABLE LAW REGARDING VEXATIOUS LITIGANTS**

13 “Federal courts can ‘regulate the activities of abusive litigants by imposing carefully
14 tailored restrictions under . . . appropriate circumstances.’” Ringgold-Lockhart v. County of
15 Los Angeles, 761 F.3d 1057, 1061 (9th Cir. 2014) (quoting De Long v. Hennessey, 912 F.2d
16 1144, 1147 (9th Cir. 1990). “Flagrant abuse of the judicial process cannot be tolerated
17 because it enables one person to preempt the use of judicial time that properly could be used
18 to consider the meritorious claims of other litigants.” De Long, 912 F.3d at 1148; see also
19 Molski v. Evergreen Dynasty Corp., 500 F.3d 1047, 1057 (9th Cir. 2007) (quoting De Long).
20 However, because restricting access to the courts is a “serious matter,” Ringgold-Lockhart,
21 761 F.3d at 1061, district courts should enter a pre-filing order only after a “cautious review of
22 the pertinent circumstances. Molski, 500 F.3d at 1057.

23 Local Rule 83-8.2 governs vexatious litigant determinations in the Central District. It
24 provides:

25 On its own motion or on motion of a party, after opportunity to be
26 heard, the Court may, at any time, order a party to give security in such
27 amount as the Court determines to be appropriate to secure the payment
28 of any costs, sanctions or other amounts which may be awarded against a

1 vexatious litigant, and may make such other orders as are appropriate to
2 control the conduct of a vexatious litigant. Such orders may include,
3 without limitation, a directive to the Clerk not to accept further filings from
4 the litigant without payment of normal filing fees and/or without written
5 authorization from a judge of the Court or a Magistrate Judge, issued
6 upon such showing of the evidence supporting the claim as the judge may
7 require.

8 Local Rule 83-8.2. “Any order issued under [Local Rule]. 83-8.2 shall be based on a finding
9 that the litigant to whom the order is issued has abused the Court’s process and is likely to
10 continue such abuse, unless protective measures are taken.” Local Rule 83-8.3; see also
11 DeLong v. Hennessey, 912 F.2d at 1147 (To support a vexatious litigant finding, “[a]t the least,
12 the records needs to show, in some manner, that the litigant’s activities were numerous or
13 abusive.”).

14 In making a vexatious litigant finding, a district court must “comply with certain
15 procedural and substantive requirements” set forth by the Ninth Circuit before imposing pre-
16 filing restrictions. Ringgold-Lockhart, 761 F.3d at 1062.

17 First, the litigant must be given notice and a chance to be heard before the order is
18 entered. Second, the district court must compile an adequate record for review. Third,
19 the district court must make substantive findings about the frivolous or harassing nature
20 of the plaintiff's litigation. Finally, the vexatious litigant order must be narrowly tailored
21 to closely fit the specific vice encountered.

22 De Long, 912 F.2d at 1147-48 (internal quotations and citations omitted).

23 While the first two requirements are procedural, the latter two are substantive, and a
24 “separate set of considerations” may provide a “helpful framework” in “applying the two
25 substantive factors.” Ringgold-Lockhart, 761 F.3d at 1062 (quoting Molski, 500 F.3d at 1058).

26 These substantive considerations are:

27 (1) the litigant’s history of litigation and in particular whether it entailed vexatious,
28 harassing or duplicative lawsuits; (2) the litigant’s motive in pursuing the litigation, e.g.,

1 does the litigant have an objective good faith expectation of prevailing; (3) whether the
2 litigant is represented by counsel; (4) whether the litigant has caused needless expense
3 to other parties or has posed an unnecessary burden on the courts and their personnel;
4 and (5) whether other sanctions would be adequate to protect the courts and other
5 parties.

6 Molski, 500 F.3d at 1058 (quoting Safir v. U.S. Lines, Inc., 792 F.2d 19, 24 (2d Cir. 1986)).
7 According to the Ninth Circuit, "[t]he final consideration – whether other remedies 'would be
8 adequate to protect the courts and other parties' is particularly important." Ringgold-Lockhart,
9 761 F.3d at 1062.

10 The Court addresses these factors below.

11 **III. DISCUSSION**

12 **A. Notice and Opportunity to Be Heard**

13 The Court hereby notifies Favor that it is considering a vexatious litigant order for the
14 reasons set forth in this Order. As discussed below, Favor must file a written response within
15 **fourteen (14) days** of the date of this Order.

16 **B. An Adequate Record for Review**

17 Favor has filed at least 50 actions in this district since 2014, and he continues to file
18 new habeas petitions and civil rights complaints on a regular basis.

19 1. Habeas Petitions Filed Before the First Habeas Action:

20 The following are habeas petitions that were dismissed summarily for lack of jurisdiction
21 because they were patently frivolous: (1) Favor v. People, CV 13-5299-JSL (JEM); (2) Favor v.
22 People, CV 14-0555-JGB (JEM).

23 2. Habeas Petitions Filed While the First Habeas Action Was Pending

24 The following are habeas petitions that were filed while the First Habeas Action was
25 pending, which were construed as motions to amend the FAP and denied as futile: (1) Favor
26 v. People, CV 14-6655-JGB (JEM); (2) Favor v. Harris, CV 15-2918-JGB (JEM); (3) Favor v.
27 Warden, CV 15-5681-JGB (JEM); (4) Favor v. People, CV 15-9086-JGB (JEM); (5) Favor v.
28 Dep't of Corrections, CV 16-0328-JGB (JEM); (6) Favor v. Parama, CV 16-3884-JGB (JEM);

1 (7) Favor v. People, CV 16-3903-JGB (JEM); (8) Favor v. Paramo, CV 16-4313-JGB (JEM);
2 (9) Favor v. Paramo, CV 16-4383-JGB (JEM); (10) Favor v. Favor, CV 16-4872-JGB (JEM);
3 (11) Favor v. Paramo, CV 16-5120-JGB (JEM).

4 3. Habeas Petitions Filed After Dismissal of the First Habeas Action

5 The following are unauthorized successive habeas petitions filed after the First Habeas
6 Action was dismissed with prejudice:¹ (1) Favor v. Minaj, CV 16-8494-JGB (JEM); (2) Favor v.
7 Harper, CV 16-8593-JGB (JEM); (3) Favor v. Vasquez, CV 16-8883-JGB (JEM); (4) Favor v.
8 Ryan, CV 16-9011-JGB (JEM); (5) Favor v. Vasquez, CV 16-9112-JGB (JEM); (6) Favor v.
9 Harper, CV 16-9255-JGB (JEM); (7) Favor v. Minaj, CV 16-9334-JGB (JEM); (8) Favor v.
10 Harper, CV 16-9356-JGB (JEM); (9) Favor v. Carter, CV 16-9357-JGB (JEM); (10) Favor v.
11 Paramo, CV 16-9475-JGB (JEM); (11) Favor v. Vasquez, CV 16-9537-JGB (JEM); (12) Favor
12 v. People, CV 17-0165-JGB (JEM).

13 The following are habeas actions that Favor purported to file on behalf of other people
14 in which he did not appear to have standing: (1) Turner v. Favor, CV 16-9333-JGB (JEM);
15 (2) Favor v. People, CV 17-0134-JGB (JEM).

16 4. Civil Rights Actions

17 The following are civil rights actions in which Favor's applications to proceed without
18 prepayment of filing fees ("IFP Applications") were denied and the cases were dismissed
19 because the complaints were frivolous, malicious and/or failed to state a claim: (1) Favor v.
20 Fair, CV 16-5834-JGB (JEM); (2) Favor v. Slaveowners, CV 15-5839-JGB (JEM); (3) Favor v.
21 Slavemasters, CV 15-5840-JGB (JEM); (4) Favor v. Los Angeles Superior Court, CV 15-5842-
22 JGB (JEM); (5) Favor v. Los Angeles District Attorney, CV 15-5875-JGB (JEM); (6) Favor v.
23 Rome, CV 15-7076-JGB (JEM); (7) Favor v. Ku Klux Klan, CV 15-7077-JGB (JEM); (8) Favor
24 v. Shaiid Ali-EI, CV 15-7132-JGB (JEM); (9) Favor v. Food and Drug Administration, CV 15-
25 7132-JGB (JEM); (10) Favor v. Jefferson, CV 15-7134-JGB (JEM); (11) Favor v. Wimfroy, CV
26

27 ¹ Many of these cases were filed recently and remain pending as of the date of this Order.
28 However, review of the petitions demonstrate that they are unauthorized successive habeas
petitions subject to summary dismissal.

1 15-7135-JGB (JEM); (12) Favor v. Bazrut, CV 15-7136-JGB (JEM); (13) Favor v. Guidroz, CV
2 15-7137-JGB (JEM); (14) Favor v. Guthry, CV 15-7509-JGB (JEM); (15) Favor v. The Moorish
3 Science Temple of America, Inc., CV 15-7857-JGB (JEM); (16) Favor v. People, CV 15-7878-
4 JGB (JEM); (17) Favor v. Baby Cash Money Records, CV 15-8175-JGB (JEM); (18) Favor v.
5 Simpson, CV 15-9496-JGB (JEM); (19) Favor v. Brown, CV 15-9502-JGB (JEM); (20) Favor v.
6 Williams, CV 16-0042-JGB (JEM); (21) Favor v. Guthry, CV 16-0212-JGB (JEM); (22) Favor v.
7 Boydd, CV 16-0690-JGB (JEM); (23) Favor v. Hutcherson, CV 16-1129-JGB (JEM); (24) Favor
8 v. Baby Cash Money Records, CV 16-1131-JGB (JEM); (25) Favor v. State, CV 16-2870-JGB
9 (JEM); (26) Favor v. Slave Owners, CV 16-8038-JGB (JEM); (27) Favor v. Harper, CV 16-
10 8713-JGB (JEM).

11 **C. Substantive Findings About the Frivolous or Harassing Nature of**
12 **Favor's Litigation**

13 Favor's previous filings are both numerous and meritless. Given the sheer quantity of
14 his filings, it would be unduly burdensome to address the specifics of each action. However,
15 the dockets for the civil rights cases listed above readily demonstrate that the IFP Applications
16 were denied and the actions dismissed because the complaints were frivolous, malicious,
17 and/or failed to state a claim. The various habeas petitions, other than the First Habeas
18 Action, were dismissed as patently frivolous, construed as meritless motions to amend, or
19 appear to be unauthorized successive petitions. These filings are rambling, confusing, mostly
20 unintelligible, and most contain no clear claim for relief. They are also largely duplicative and
21 repetitive. The following examples adequately demonstrate the frivolous and harassing nature
22 of Favor's litigation:

23 Brandon Favor v. Slaveowners, CV 15-5839-JGB (JEM); Brandon Favor v.
24 Slaveowners, CV 16-8038-JGB (JEM): In two separate civil rights actions, Favor sued
25 "Slaveowners" purportedly on behalf of himself and "All African Americans." (Complaint at 1.)²
26 There was no further description of defendants nor was there any indication they were state
27 _____

28 ² The Court refers to the pages of Favor's pleadings as numbered by the Court's CM/ECF system.

1 actors. Favor alleged that the civil right at issue was “freedom,” which was violated by
2 defendants’ “inconsist[e]nt statements.” (Id. at 8.) There were no additional legal claims or
3 supporting facts alleged to support any civil rights claims, although in case number CV 16-
4 8038-JGB (JEM), Favor inexplicably attached various documents apparently relating to his
5 underlying criminal conviction and subsequent habeas petitions. Favor’s IFP Applications in
6 both cases were denied and the cases dismissed because the complaints failed to state a
7 claim and no amendment could cure the complaints’ defects.

8 Brandon Favor v. Slavemasters, CV 15-5840-JGB (JEM): Favor filed a civil rights
9 complaint purportedly on behalf of himself and “All Former Slaves,” which named
10 “Slavemasters” as defendants. (Complaint at 1.) There was no further description of
11 defendants nor was there any indication they are state actors. Favor identified the civil right at
12 issue as “inapplicable,” but asserted that his rights were violated by defendants’ “inconsist[e]nt
13 statements.” (Id. at 5, 7.) There are no additional legal claims or supporting facts alleged.
14 Favor’s IFP Application was denied and the case dismissed because the complaint failed to
15 state a claim and no amendment could cure the complaint’s defects.

16 Brandon Favor v. The Moorish Science Temple of America, Inc., CV 15-7857-JGB
17 (JEM): Favor filed a civil rights complaint naming The Moorish Temple of America, Inc., as the
18 sole defendant. (Complaint at 1, 6.) There was no indication that defendant was a state
19 actor. Favor identified the civil right at issue as “non-statutory relief,” which was allegedly
20 violated by defendant’s “inconsist[e]nt statements.” (Id. at 8.) There were no additional legal
21 claims or supporting facts alleged. Favor’s IFP Application was denied and the case
22 dismissed because the complaint failed to state a claim and no amendment could cure the
23 complaint’s defects.

24 Brandon Favor v. Baby Cash Money Records, CV 15-8175-JGB (JEM): Favor filed a
25 civil rights complaint naming Baby Cash Money Records as the sole defendant. (Complaint at
26 1.) There was no indication that defendant was a state actor. Favor identified the civil right at
27 issue as “non-statutory relief, cruel and unusual punishment,” which was allegedly violated by
28 defendant’s “inconsist[e]nt statements (apply by right) of civil [unintelligible] relief.” (Id. at 5.)

1 There were no additional legal claims or supporting facts alleged. Favor’s IFP Application was
2 denied and the case dismissed because the complaint failed to state a claim and no
3 amendment could cure the complaint’s defects.

4 Brandon Favor v. Baby Cash Money Records, CV 16-1131-JGB (JEM): Favor filed a
5 civil rights complaint naming “Baby Cash Money Records, Lil Wayne (Nikki Minaj), Nicki Minaj
6 (Brandon Favor), and Unidentified Victims (Johnathan Doe[s])” as defendants. (Complaint at
7 1.) There was no indication that any of these defendants were state actors. Favor identified
8 the civil rights allegedly violated as “cruel and/or unusual punishment.” (Id. at 5.) Favor
9 alleged that defendants violated his rights as follows: “Under inordinate effects, living
10 conditions [uncontested] within the penal institution were not recognized, and unsafe or a
11 hazard for the public, including prison population, as well kept, [unintelligible], a substance of
12 unlike nature or natures where its fluent recognition went and became expended.” (Id.) There
13 were no additional legal claims or supporting facts alleged. Favor’s IFP Application was
14 denied and the case dismissed because the complaint failed to state a claim and no
15 amendment could cure the complaint’s defects.

16 Brandon Favor v. People, CV 13-5299-JSL (JEM): Favor filed this habeas petition
17 before he filed the First Habeas Action. The petition consisted of 31 pages of confused and
18 unfocused rambling and any grounds for relief asserted therein were deficient. For example,
19 Favor set forth a single claim for relief in the form petition, stating: “Prosecution along with
20 judicial authorities in part by association acted to convict appella[nt] on criminal wrongdoing in
21 association with and by criminal wrongdoing. Trial counsel motive of defense could not result
22 with non-guilty findings.” (Petition at 3.) Favor’s remaining allegations, which are partly
23 illegible, mostly incoherent, and include palpably incredible allegations (see id. at 18 (claiming
24 that Favor “witness[e]d Jesus Christ spirit leave his . . . body (as to) float over to Mr.
25 Castaneda then disappear into the heavens”)), are similarly deficient. Accordingly, the petition
26 was found to be patently frivolous and was summarily dismissed.

27 Brandon Favor v. Warden, CV 15-5681-JGB (JEM): Favor filed this state habeas
28 petition while the First Habeas Action was still pending. Both petitions challenged Favor’s

1 conviction in Los Angeles County Superior Court case number BA285265. (Petition at 1-4.)
2 Here, Favor set for the following grounds for relief: (1) “Ability to provide information with
3 parties involved using sorcery, witchcraft, black magic, voodoo” (*id.* at 6); (2) “Jury instruction
4 on duress” (*id.* at 8); and (3) “Emergency. . . . I did not act to commit a crime under duress”
5 (*id.* at 9). In support of Ground One, Favor attached a page of handwritten notes that were
6 largely illegible and wholly unintelligible. (*Id.* at 7.) The page purports to be “a list of leads” for
7 respondent’s counsel and appears to include names and contact information from the
8 “Department of Mental Health Records Dept.” for people associated with “witchcraft,”
9 “voodoo,” “dark spirits,” “mental manipulation,” and so forth. (*Id.*) Favor offered no additional
10 facts or arguments to support his other claims, but did include over a hundred pages of
11 exhibits pertaining to his underlying conviction and prior habeas actions. The petition was
12 construed as a motion to amend the FAP in the First Habeas Action, which was denied as
13 futile.

14 Brandon Favor v. Nikki Minaj, Baby Cash Money Records, Maxine A., CV 16-8494-JGB
15 (JEM): Favor filed this state habeas petition after the First Habeas Action was denied on the
16 merits and dismissed with prejudice. This petition and the FAP in the First Habeas Action both
17 challenged Favor’s conviction in Los Angeles County Superior Court case number BA285265.
18 (Petition at 7.) Favor made no showing that he had permission from the Ninth Circuit to file a
19 successive habeas petition, as required by 28 U.S.C. § 2244(b). Accordingly, the petition is
20 subject to summary dismissal. It remains pending as of the date of this Order.

21 These cases easily satisfy the “substantive considerations” identified by the Ninth
22 Circuit. They reflect a broad pattern of frivolous and/or harassing litigation that Favor has
23 initiated in this Court. Favor could not have had an “objective good faith expectation of
24 prevailing” as the Court has repeatedly explained to Favor that these claims are meritless.
25 While Favor’s pro se status is a mitigating factor in this analysis, it does not outweigh the
26 burden on the Court that addressing Favor’s numerous meritless actions has involved.

27 Accordingly, the Court’s substantive findings concerning Favor’s previous filings weigh
28 strongly in favor of limiting his ability to engage in future frivolous litigation.

