

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELROY K. WADE,

Plaintiff,

No. C 10-00425 WHA

v.

WOODY GILLILAND, in his individual capacity; WILLIAM SMITHERMAN, in his individual capacity; GEORGIA MARTIN, in her individual capacity; ALICE YOUNG, in her individual capacity; SARAH NELSON, in her individual capacity; KATHYANN BATISTE, in her individual capacity; and BERLENE ROBERTS, in her individual capacity,

Defendants.

**ORDER DENYING VEXATIOUS
LITIGANT’S MOTION TO VACATE
PRE-FILING ORDER**

Pro se plaintiff Elroy K. Wade, a vexatious litigant, has yet again filed another motion — his third — challenging the imposition of his 2010 pre-filing order. Whereas Wade previously brought two motions for injunctive relief in 2019 and 2020 (Dkt. Nos. 137, 155), challenging the validity and constitutionality of the pre-filing order, which we denied (Dkt. Nos. 141, 160), he now brings a motion to vacate said order as “void” pursuant to Rule 60(b)(4) (Dkt. No. 162). Though the legal dressing has changed, the thrust of his motion remains the same as before, namely, he claims that this Court did not have the power to impose the pre-filing order pursuant to the All Writs Act.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

For reasons already explained in the 2019 order denying Wade’s request for injunctive relief (Dkt. No. 141 at 3–4), which our court of appeals affirmed (Dkt. No. 159), and for the reasons given by our court of appeals in *Wade v. Acosta*, 727 F.App’x 454 (9th Cir. 2018), Wade’s argument is without merit. His motion is thus **DENIED**.

Wade is welcome to submit, for preliminary review, a non-frivolous and plausible complaint, if he has one. Please be aware that our district court has hundreds and hundreds of other lawsuits (plus criminal cases), so that every hour spent previewing frivolous complaints (if they are frivolous) takes away from our time on non-frivolous cases.

IT IS SO ORDERED.

Dated: January 13, 2021.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE