

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 12-cv-01570-CMA-MEH

HAROLD CUNNINGHAM, et al.,

Plaintiffs,

v.

FEDERAL BUREAU OF PRISONS,

Defendant.

ORDER STRIKING IMPROPER MOTION

This matter is before the Court on Michael Bacote, Jr.'s Motion for Order Confirming [that he] Appropriately Exercised his Right Not to Be Bound by Settlement Agreement. (Doc. # 455.) For the following reasons, the Motion is stricken.

I. ANALYSIS

This case involves a class action that was resolved by a settlement agreement. After the Court accepted the agreement, this case was dismissed with prejudice, and the Clerk of the Court entered final judgment on January 17, 2017. (Doc. ## 398, 399.) Nearly three years later, Mr. Bacote filed the instant Motion in which he requests “that this Court affirm that he has exercised his statutory right not to be bound by the settlement agreement” (Doc. # 455 at 1.)

“It is fundamental that federal courts do not render advisory opinions and that they are limited to deciding issues in actual cases and controversies.” *Alexander v. Mullarkey*, 340 F. App'x 455, 457 (10th Cir. 2009) (quoting *United States v. Burlington*

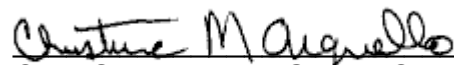
N. R.R., 200 F.3d 679, 699 (10th Cir. 1999)). In fact, “[t]he rule against advisory opinions is ‘the oldest and most consistent thread in the federal law of justiciability.’” *Ctr. for Biological Diversity v. United States Forest Serv.*, 925 F.3d 1041, 1047 (9th Cir. 2019) (quoting *Flast v. Cohen*, 392 U.S. 83, 96 (1968)). Because the Court entered a final judgment that resolved this dispute years ago, there is no case or controversy currently pending. Therefore, the relief Mr. Bacote is seeking would constitute an impermissible advisory opinion.

II. CONCLUSION

Based on the foregoing, Mr. Bacote’s Motion for Order Confirming [that he] Appropriately Exercised his Right Not to Be Bound by Settlement Agreement (Doc. # 455) is STRICKEN.

DATED: April 10, 2020

BY THE COURT:


CHRISTINE M. ARGUELLO
United States District Judge