

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

<p>OSCAR GUILLEN, SR.,</p> <p style="padding-left: 40px;">Plaintiff,</p> <p style="padding-left: 40px;">v.</p> <p>MS. HALEY, et al.,</p> <p style="padding-left: 40px;">Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>No. 2:13 CV 105</p>
--	---	-------------------------------

OPINION and ORDER

Oscar Guillen, Sr., a *pro se* prisoner, filed this case in the Lake Superior Court on December 19, 2012. It was removed to this court by the defendants on March 20, 2013. Guillen cannot litigate in this court because he is a restricted filer. On October 29, 2009, in *Guillen v. Hoppe*, 2:09-cv-345 (N.D. Ind. filed October 19, 2009), the Clerk was ordered “to return, unfiled, any papers filed in any case by or on behalf of Oscar Guillen, Sr. (except for a notice of appeal or unless filed in a criminal or habeas corpus proceeding) until he has paid in full all outstanding fees and sanctions in all civil actions in any federal court” That sanction was imposed because Guillen is an abusive litigator who had filed nine meritless cases or appeals and then attempted to bamboozle the court in an attempt to evade his obligation to pre-pay the filing fee as required by 28 U.S.C. § 1915(g). The restriction is still in place because he owes this court thousands of dollars in unpaid filing fees.

The defendants removed this case from State court because it included federal claims. It was their right to do so. *See* 28 U.S.C. § 1441. However, because Guillen is

unable to file anything in this court, it is impossible for him to litigate this case here. The defendants cannot be made to litigate federal claims in State court if they choose to remove them. However, the restriction which precluded Guillen from litigating civil cases in this court did not preclude him from litigating in State court. These two competing interests can be accommodated by dismissing the federal claims and remanding the State claims back to State court.

For the foregoing reasons, the federal claims are **DISMISSED WITHOUT PREJUDICE** and the remaining State claims are **REMANDED** to the Lake Superior Court.

SO ORDERED.

Date: April 11, 2013

s/ James T. Moody
JUDGE JAMES T. MOODY
UNITED STATES DISTRICT COURT