

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

KEITH RUSSELL JUDD
(SANCTIONED/BARRED)

CIVIL ACTION NO. 11-0870

VERSUS

JUDGE ROBERT G. JAMES

SECRETARY STATE OF LOUISIANA,
ET AL.

MAG. JUDGE KAREN L. HAYES

MEMORANDUM ORDER

Pending before the Court is a “Motion to Exempt Plaintiff from PLRA as not a Prisoner; 28 U.S.C. § 1915(h)” (“Motion to Exempt”) [Doc. No. 15] filed by *pro se* Plaintiff Keith Russell Judd (“Judd”). Judd is a frequent filer in this and other courts. He contends that he should be exempted from paying a filing fee in this Court because he is not a prisoner as defined by the Prison Litigation Reform Act (“PLRA”), 28 U.S.C. § 1915, since he was never “convicted, accused or prosecuted.”

Section 1915(g) provides:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

There is no question that Judd is a prisoner who is currently incarcerated at the Federal Correctional Institute at Texarkana, Texas. There is also no question that Judd has had three or more actions dismissed as frivolous, malicious, or for failing to state a claim upon which relief can be granted. *See* [Doc. No. 3]. However, Judd argues that his underlying criminal case, *United States v. Judd*, No. 7-98-CR-093 (W.D. Tex. 1999), was stayed pursuant to March 17 and 23, 1999 orders,

the United States Court of Appeal for the Fifth Circuit affirmed the stay, and the stay was never vacated. Judd further contends that he is not imprisoned based on an “original Commitment Order or endorsed return on file.” [Doc. No. 16].

The record in Judd’s criminal case shows otherwise. Judd was committed to the custody of the United States Bureau of Prisons pursuant to a Judgment filed on September 29, 1999. *Judd*, No. 7-98-CR-093 [Doc. No. 450]. That Judgment, a copy of which is attached and filed under seal, provided that Judd serve a term of 210 months imprisonment on Counts 1 and 2, to run concurrently. Judd continues to serve the sentence imposed. Accordingly,

IT IS ORDERED that Judd’s Motion to Exempt [Doc. No. 15] is DENIED. Judd is subject to the provisions of the PLRA, and, even if he were determined to be indigent,¹ he is not entitled to file civil actions in this or any other federal court without paying the filing fee unless he is in imminent danger of serious physical injury.

MONROE, LOUISIANA, this 27th day of June, 2012.


ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE

¹Judd has not been determined to be indigent.