

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

DAVID LOUIS WHITEHEAD

CIVIL ACTION NO. 10-1120

VERSUS

JUDGE ELIZABETH ERNY FOOTE

FEDEX OFFICE INC.

MAGISTRATE JUDGE HORNSBY

MEMORANDUM RULING

Before this Court is Plaintiff David Louis Whitehead's "Motion for Leave to Reopen and Transfer" which is filed pro se.¹ For the reasons outlined below, the "Motion for Leave to Reopen and Transfer" [Record Document 56] is **DENIED**.

Plaintiff's claim for personal injuries and other matters was removed from the 26th Judicial District State Court to this Court on July 9, 2010. Defendants thereafter filed a motion seeking to dismiss this action in its entirety [Record Document 4], pursuant to Federal Rule of Civil Procedure 12(b)(3), that is, that the case had been filed in an "improper venue." In the alternative, Defendants moved for a transfer of this action to the United States District Court for the District of Columbia, pursuant to 28 U.S.C. § 1404(a). On October 18, 2010, the Court issued a Memorandum Ruling [Record Document 45] Granting Defendant's Motion to Dismiss and dismissing Plaintiff's claim without prejudice. On November 15, 2010, the Plaintiff filed for a new trial [Record Document 49] and then, two days later, on November 17, 2010, filed a Notice

¹Although Plaintiff was represented by counsel up through the dismissal of his claim, Plaintiff now states that said counsel is no longer representing him and he is representing himself. However, the Court notes that no motion with regard to withdrawal of counsel is in the record.

of Appeal as to the Court's Memorandum Ruling dismissing his case without prejudice [Record Document 50]. On November 23, 2010, the Court issued a Memorandum Order denying Plaintiff's motion for a new trial [Record Document 52]. On April 11, 2011, the Fifth Circuit Court of Appeal issued a judgment dismissing the Plaintiff's appeal for want of prosecution. The Court noted that the appellant failed to timely file a brief and record excerpts. [See Record Document 55].


Now, almost one year after the Court's original judgment dismissing his claim without prejudice and six months after the court of appeal dismissed his claim for want of prosecution, the Plaintiff has filed this "Motion for Leave to Reopen and Transfer" seeking the transfer of his case to Washington, DC.

The Plaintiff cites no authority for the Court to reopen and then transfer his case. Furthermore, the Court has examined Federal Rule of Civil Procedure 60 and finds it inapplicable to the present motion. For these reasons, Plaintiff's "Motion for Leave to Reopen and Transfer" [Record Document 56] is **DENIED**.

Plaintiff is cautioned that the filing of frivolous motions with the Court may result in the imposition of sanctions.

All parties shall disregard the Clerk's Notice of Motion Setting [Record document 57].

THUS DONE AND SIGNED in Shreveport, Louisiana, on this 19th day of October, 2011.


ELIZABETH ERNY FOOTE
UNITED STATES DISTRICT JUDGE