

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE RONALD A. POLK,

Petitioner,

Case No. 17-mc-50360

Honorable Denise Page Hood

ORDER DENYING PETITION FOR LEAVE TO FILE COMPLAINT
AND
DISMISSING CASE

Ronald A. Polk seeks permission for leave to file a complaint pursuant to a court order dated January 23, 2006 entered by the Honorable David M. Lawson requiring Polk to first request leave to file another suit in this District. (See Case No. 05-10134) Polk's latest attempt to file a lawsuit before this District was in 2014. (See Case No. 14-13352) The Honorable Thomas L. Ludington in the 2014 case required Polk to submit the following before filing a new lawsuit:

It is further **ORDERED** that before Plaintiff files a lawsuit in this Court, he must file: (1) a motion for permission to file the pleading; (2) an affidavit demonstrating that his allegations have merit and are not repetitious of previous complaints; and (3) a copy of the Court's final order on this matter. Prior to this Petition, Plaintiff had filed or has sought to file more than twenty complaints.

Polk v. Montcalm County, et al., Case No. 14-13352, Doc. No. 7. Plaintiff did file permission to file a pleading, but did not submit an affidavit nor a copy of Judge Ludington's order with his papers.

The Sixth Circuit has held that district courts may properly enjoin vexatious litigants from filing further actions against a defendant without first obtaining leave of court. *Feathers v. Chevron U.S.A., Inc.*, 141 F.3d 264, 269 (6th Cir. 1998); see also, *Filipas v. Lemons*, 835 F.2d 1145, 1146 (6th Cir. 1987). “There is nothing unusual about imposing prefiling restrictions in matters with a history of repetitive or vexatious litigation.” *Feathers*, 141 F.3d at 269. A district court need only impose “a conventional prefiling review requirement.” *Id.* The traditional tests applicable to preliminary injunction motions need not be applied since the district court’s prefiling review affects the district court’s inherent power and does not deny a litigant access to courts of law. See *In re Martin-Trigona*, 737 F.2d 1254, 1262 (2d Cir. 1984). A prefiling review requirement is a judicially imposed remedy whereby a plaintiff must obtain leave of the district court to assure that the claims are not frivolous or harassing. See e.g., *Ortman v. Thomas*, 99 F.3d 807, 811 (6th Cir. 1996). Often, a litigant is merely attempting to collaterally attack prior unsuccessful suits. *Filipas*, 835 F.2d at 1146.

A review of Polk’s proposed Complaint shows that it is a frivolous suit and fails

to state a claim upon which relief can be granted. See *Ana Leon T. v. Fed. Reserve Bank*, 823 F.2d 928, 930 (6th Cir. 1987). Polk cites a violation of 42 U.S.C. § 1983 by the Defendants Warren Township, Warren Township Board and Warren Township Zoning Board. In the case before Judge Lawson, Polk made the same allegations against a different municipality that he is a farmer under the Michigan Right to Farm Act and that Defendants failed to provide him with the appropriate due process hearing. (See Case No. 05-10134, Doc. No. 4, Pg ID 42-44) As in that case, Polk in this case failed to allege any policy or custom of Warren Township which contributed to any alleged injuries. Municipalities are only liable if a plaintiff's injury was caused by an unconstitutional "policy" or custom" of the municipality. *Stemler v. City of Florence*, 126 F.3d 856, 865 (6th Cir. 1997).

Accordingly,

IT IS ORDERED that Ronald A. Polk's Request to Allow Him to File a New § 1983 Action/Petition for Leave to File Complaint (**Doc. No. 1, filed March 10, 2017**) is DENIED.

IT IS FURTHER ORDERED that the Application to Proceed Without Prepaying Fees or Costs (**Doc. No. 3, filed March 10, 2017**) is DENIED as MOOT.

IT IS FURTHER ORDERED that the Motion for Emergency Stay of any action by Warren Township (**Doc. No. 4, filed March 10, 2017**) is DENIED as MOOT.

IT IS FURTHER ORDERED that the Complaint (**Doc. No. 2, filed March 10, 2017**) and the Miscellaneous Case Number 17-mc-50360 are **DISMISSED** and **DESIGNATED CLOSED**.

S/Denise Page Hood

Denise Page Hood
Chief Judge, United States District Court

Dated: April 11, 2017

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 11, 2017, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager