

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LANCE REBERGER,
Plaintiff,
vs.
OFFENDER MANAGEMENT DIVISION,
et al.
Defendants.

3:12-cv-00293-LRH-VPC

ORDER

This prisoner civil rights action comes before the Court following upon a referral from the Court of Appeals for a certification as to whether the appeal is taken in good faith.

Plaintiff’s civil action and the appeal from the dismissal of the action are frivolous. Plaintiff filed a prior lawsuit in which he sought to block his transfer to Ely State Prison (“Ely”). In that action, after the Court denied interim relief on plaintiff’s motion to block the transfer, state correctional officials transferred plaintiff to Ely. Plaintiff conclusorily labels that transfer as being in retaliation for his – failed – request to block the transfer. Under plaintiff’s tortured logic, correctional officials could not transfer him regardless of the outcome of the prior litigation. If he won in that action, the order would bar the transfer. If he instead lost, which in fact is what occurred, state correctional officials purportedly still could not transfer him because to do so would be action taken in “retaliation” for his failed litigation. See #9, at 2-5. An appeal of the dismissal of an action based upon such frivolous jailhouse logic would be dismissed in the case of a non-indigent litigant.

IT THEREFORE IS ORDERED, pursuant to 28 U.S.C. § 1915(a)(3), that the Court certifies to the Court of Appeals that the appeal is not taken in good faith.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The Clerk of Court shall forward a notice of electronic filing to the Court of Appeals with regard to this order as per the Clerk's current practice for such matters.

DATED this 7th day of January, 2013.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE