

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FREDERICK BANKS, as "Next Friend"
for O.J. Simpson,

Petitioner,

vs.

3:17-cv-00452-HDM-VPC

ORDER

WARDEN,

Respondent.

This closed habeas matter under 28 U.S.C. § 2254 comes before the Court on petitioner's motion (ECF No. 5) to vacate the order and final judgment of dismissal. The motion was filed within the time period for seeking relief under Rule 59 of the Federal Rules of Civil Procedure.

The Court dismissed this action without prejudice because petitioner failed to properly commence the action by submitting a properly completed pauper application on the required form with all required financial attachments. The Court found that dismissal of the improperly-commenced action without prejudice would not result in substantial prejudice because the Ohio state inmate's assertion of "next friend" standing to file a habeas petition for former Nevada state inmate O.J. Simpson was frivolous and fanciful on its face.

Nothing in the present motion leads to a contrary conclusion either with regard to the basis for the dismissal without prejudice in the first instance or the Court's finding regarding the absence of substantial prejudice.

IT THEREFORE IS ORDERED that petitioner's motion (ECF No. 5) to vacate is DENIED.

1 IT FURTHER IS ORDERED that a certificate of appealability, to the extent required in
2 this procedural context, is DENIED.

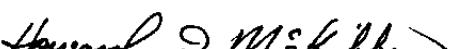
3 IT FURTHER IS ORDERED, pursuant to Rule 4 of the Rules Governing Section 2254
4 Cases, that the Clerk of Court shall make informal electronic service upon respondents by
5 adding Nevada Attorney General Adam P. Laxalt as counsel for respondents and directing
6 a notice of electronic filing of this order to his office. **No response is required from**
7 **respondents other than to respond to any orders of a reviewing court.**

8 IT FURTHER IS ORDERED that this matter is referred to the Warden of the Northeast
9 Ohio Correctional Center for consideration of possible institutional disciplinary sanctions
10 and/or loss of sentencing credits under Ohio law based upon the filing of a frivolous judicial
11 proceeding. The Clerk accordingly shall SEND a copy of this order to:

12 Mr. Christopher La Rose, Warden
13 Northeast Ohio Correctional Center
14 2240 Hubbard Road
15 Youngstown, Ohio 44505

16 IT FURTHER IS ORDERED that the Clerk shall designate petitioner as a restricted filer
17 on the docket sheet and shall accept no further filings from petitioner in this matter other than
18 a notice of appeal from this order and/or the order and judgment of dismissal.

19
20
21 DATED: November 16, 2017.

22 
23
24
25
26
27
28

22 HOWARD D. MCKIBBEN
23 United States District Judge
24
25
26
27
28