

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

FILED

FEB 2 2010

WILLIAM B. GUTHRIE  
Clerk, U.S. District Court

By \_\_\_\_\_  
Deputy Clerk

ROBERT COTNER, )  
)  
Plaintiff, )  
)  
v. )  
)  
JUSTIN JONES, )  
)  
Defendant, )

No. CIV 10-025-RAW-SPS

OPINION AND ORDER

Robert Cotner is before this court with another frivolous lawsuit, having filed a "Petition Under HOLDINGS OF FREW -v- Hawkins 540 U.S. 1118 (2004) FOR ENFORCEMENT of Order" [Docket No. 1]. He again is attempting to enforce a purported consent decree in *Williams v. Saffle*, No. CIV 72-095-JHP (E.D. Okla. Jan. 30, 2001), a civil rights action also known as the *Battle* case. Plaintiff alleges he is a member of the *Battle* class, and the Oklahoma Department of Corrections has failed to comply with the dictates of that case.

Plaintiff tried to raise this same meritless argument related to the *Battle* case in *Cotner v. Ward*, No. CIV 04-095-FHS (E.D. Okla. July 14, 2004). He was advised in that case that *Frew v. Hawkins*, 540 U.S. 431 (2004), a case concerning enforcement of a Medicaid program's consent decree, did not apply to his claims. *Id.* The court further advised him that all injunctions in the *Battle* case had been dissolved and terminated, and the *Battle* case was closed for all purposes. *Id.* Plaintiff's present case is merely a reiteration of his prior vexatious assertions.

Although plaintiff has not paid the filing fee in this action or been granted leave to

proceed *in forma pauperis*, the court is empowered to dismiss the complaint pursuant to 28 U.S.C. § 1915A:

(a) Screening.--The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

(b) Grounds for dismissal.--On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint--

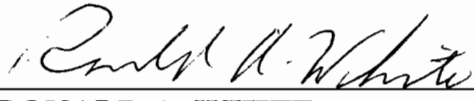
(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or

(2) seeks monetary relief from a defendant who is immune from such relief. . . .

28 U.S.C. § 1915A. *See also Plunk v. Givens*, 234 F.3d 1128, 1129 (10th Cir. 2000) (“section 1915A applies to all prison litigants, without regard to their fee status, who bring civil suits against a governmental entity, officer, or employee.”).

**ACCORDINGLY**, this actions is dismissed as frivolous, pursuant to 28 U.S.C. § 1915A(b)(1).

**IT IS SO ORDERED** this 2<sup>nd</sup> day of February 2010.

  
**RONALD A. WHITE**  
**UNITED STATES DISTRICT JUDGE**