

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

STEVEN REYNALDO PEREZ	§	
	§	
Plaintiff	§	
VS.	§	CIVIL ACTION NO. 2:12-CV-376
	§	
UNITED STATES OF AMERICA	§	

**OPINION AND ORDER DENYING PLAINTIFF’S MOTIONS TO
SUPPLEMENT THE RECORD, TO TEMPORARILY RETAIN THE RECORD
AND TO REVIEW THE CLERK’S RECORD, AND ORDER
TO PROVIDE PLAINTIFF WITH COPIES OF DOCKET SHEETS**

Plaintiff has appealed the dismissal of his lawsuit and the denial of his motion for a new trial to the Fifth Circuit Court of Appeals (D.E. 9, 10, 14, 15). Pending are Plaintiff’s motions (1) to supplement the record (D.E. 18); (2) to temporarily retain the record (D.E. 19); and (3) to review the clerk’s record (D.E. 20). The motions were referred to undersigned United States Magistrate Judge.

Plaintiff first moves to supplement the appellate record to include the filings in his criminal action (*U.S. v. Perez*, 2:03-cr-278) and in his prior civil action (*Perez v. U.S.*, 2:10cv246) (D.E. 18). Plaintiff fails to explain why the files in these cases are relevant to the issues he raises on appeal. The District Court took judicial notice of the pleadings in both of those cases for background information only. Plaintiff makes a vague assertion

that the information relied upon by the District Court was incorrect, but he failed, either in his complaint or in his motions for new trial to point out the incorrect information or to attach copies of the corrected information. To the extent that the information in Plaintiff's prior criminal and civil files is relevant to the issues raised on appeal, the Circuit Court may also take judicial notice of the pleadings in those files. *See Jean Alexander Cosmetics, Inc. v. L'Oreal USA, Inc.*, 458 F.3d 244, 256 n. 5 (3d Cir. 2006) (a court may take judicial notice of items in the record of the case, related cases, and matters of public record). Plaintiff's motion to supplement the record (D.E. 18) is denied.

Next Plaintiff moves the Clerk to retain the Record on Appeal and for an opportunity to review it (D.E. 19, 20). The record on appeal consists of the original papers and exhibits filed in the district court, the transcript of proceedings, and a certified copy of the docket entries prepared by the district clerk. FED. R. APP. P. 10 (a). There were no hearings held in this case and so there are no transcripts. The record consists of Plaintiff's complaint and his other filings and the orders of the District Court. Plaintiff is responsible for maintaining a copy of all the papers and pleadings he filed with the District Court, and he was mailed a copy of all orders entered by the District Court; therefore Plaintiff should already have a copy of the entire record on appeal. His motions (D.E. 19, 20) are denied.

In order to assist Plaintiff in organizing his brief on appeal, the Clerk shall mail to mail to Plaintiff a copy of the current docket sheet for this case, as well as a copy of the docket sheets in the related cases, 2:02cr278 and 2:10cv246.

Plaintiff's motions (D.E. 18, 19, 20) are denied.

ORDERED this 28th day of August, 2013.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE