

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DARRELL J. HARPER,
NO. 1105338,

Plaintiff,

v.

STATE OF TEXAS,

Defendant.

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CIVIL ACTION NO. H-13-0721

MEMORANDUM OPINION AND ORDER

Darrell J. Harper is an inmate of the Travis County Jail who has been sanctioned for his abuse of the legal system. He has filed a civil rights complaint against the State of Texas claiming that he has been wrongly incarcerated. He also alleges that he has been forced to testify against himself and that he has been denied effective assistance of counsel. Such claims are barred from consideration in a civil rights proceeding. Heck v. Humphrey, 114 S.Ct. 2364, 2372 (1994). The court will therefore dismiss this action for the reasons stated below.

Harper has a significant history of filing frivolous lawsuits. See, e.g., Harper v. City of Houston, No. 07-20603 (5th Cir. June 19, 2008); Harper v. Atlas, No. 05-20856 (5th Cir. Aug. 28, 2006); Harper v. Beck, No. 04-20782 (5th Cir. Aug. 16, 2005); Harper v. City of Houston, No. 04-20787 (5th Cir. June 21, 2005). The United States Court for the Fifth Circuit has repeatedly

sanctioned Harper to prevent him from continuing to file frivolous appeals although Harper does not appear to be deterred. Harper v. City of Houston, No. 07-20603. The Fifth Circuit ordered Harper to pay \$300 and barred him from filing any pleading in that court or in any court subject to the Fifth Circuit's jurisdiction until he has paid the sanction in full. Harper was also warned that he would be subject to additional sanctions if he continues to file frivolous suits. Id. The docket record for that proceeding does not indicate that Harper has paid the sanction. Id. Therefore, Harper is not authorized to file any new actions. Harper has been previously barred from filing actions in the Southern District of Texas until he has paid all of the filing fees incurred in his earlier cases and has obtained the court's permission. Harper v. City View, No. H-02-4126 (S.D. Tex. Dec. 23, 2002). These conditions have also not been met. Therefore, the current action is subject to dismissal and additional sanctions shall be ordered to prevent further abuse of the courts. Gabel v. Lynaugh, 835 F.2d 124, 125 (5th Cir. 1988).

Conclusion

Accordingly, the court **ORDERS** as follows:

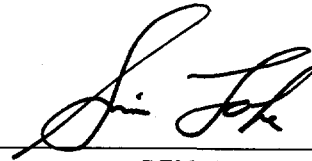
- (1) This cause of action, filed by Darrell J. Harper, #1105338, is **DISMISSED WITH PREJUDICE** because it was filed in violation of court orders.
- (2) Further, Harper persists in abusing judicial resources by filing frivolous pleadings in flagrant disregard for prior district court orders. Plaintiff Darrell J. Harper, #1105338, is

SANCTIONED in the amount of Three Hundred Dollars (\$300.00). To ensure compliance with this Order, the Travis County Jail Inmate Trust Fund Account Office is directed to place a hold on the plaintiff's account, to withdraw funds from plaintiff's account until the sanction amount has been collected, and to forward the amount to this court.

- (3) Harper is further **BARRED** from filing any civil rights suit in this district.
- (4) **THE CLERK IS ORDERED NOT TO ACCEPT FOR FILING ANY PLEADINGS OR OPEN ANY MAIL FROM HARPER. ALL MAIL SHALL BE RETURNED TO HARPER MARKED "FRIVOLOUS FILER, RETURN TO SENDER."**

The Clerk will provide copies of this Memorandum Opinion and Order to the parties; to the TDCJ - Office of the General Counsel, P. O. Box 13084, Capitol Station, Austin, TX 78711, Fax No. 512-936-2159; the Travis County Jail Inmate Trust Fund, 3614 Bill Price Road, Del Valle, Texas 78617; and to the Clerk of the United States District Court for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas 75702, Attention: Pro Se Law Clerk.

SIGNED at Houston, Texas, on this the 19th day of March, 2013.



SIM LAKE
UNITED STATES DISTRICT JUDGE