

Opinion issued February 1, 2018



In The
Court of Appeals
For The
First District of Texas

NO. 01-17-00492-CV

STEVEN MOODY, Appellant

V.

**SUCCESS HOLDING, LLC, DEBORAH GUILLORY, AND THOMAS
BENSON, Appellees**

**On Appeal from the 189th District Court
Harris County, Texas
Trial Court Case No. 2016-58409**

MEMORANDUM OPINION

Appellant, Steven Moody, attempts to appeal from the trial court's October 21, 2016 "Order Voiding Default Judgment" in the underlying bill of review

proceeding.¹ Because Moody has not complied with Chapter 11 of Texas Civil Practice and Remedies Code, we dismiss the appeal.

Under Chapter 11, “[a] court may, on its own motion or the motion of any party, enter an order prohibiting a person from filing, pro se, any new litigation in a court to which the order applies under this section without permission of the appropriate local administrative judge . . . if the court finds, after notice and hearing . . . , that the person is a vexatious litigant.” TEX. CIV. PRAC. & REM. CODE ANN. § 11.101(a) (West 2017). A Harris County district court has declared Moody a vexatious litigant and signed a prefiling order. *Moody v. Nonstop Bail Bonds, Co.*, No. 2015-52163 (113th Dist. Ct., Harris County, Tex. Feb. 12, 2016), *available at* <http://www.txcourts.gov/media/1297791/Steven-Moody-Cause-No-201552163.pdf> (last visited Jan. 29, 2018); *see Douglas v. Porter*, No. 14-10-00055-CV, 2011 WL 1601292, at *1 n.2 (Tex. App.—Houston [14th Dist.] Apr. 26, 2011, pet. denied) (mem. op.) (noting court may take judicial notice of prior finding that party is vexatious litigant). Because he is subject to a prefiling order, Moody “is prohibited from filing, pro se, new litigation in a court to which the order applies without seeking the permission of” the local administrative judge. TEX. CIV. PRAC. & REM.

¹ We dismissed a previous appeal of the October 21, 2016 order, concluding that the order was interlocutory and not a final, appealable judgment. *See Moody v. Guillory*, No. 01-16-00907-CV, 2017 WL 1505608, at *2 (Tex. App.—Houston [1st Dist.] Apr. 25, 2017, no pet.) (mem. op.).

CODE ANN. § 11.102(a)(1) (West 2017). And, the Clerk of this Court “may not file a litigation, original proceeding, appeal, or other claim presented, pro se, by a vexatious litigant subject to a prefiling order” unless he obtains an order from the appropriate local administrative judge permitting the filing. *Id.* § 11.103(a) (West 2017); *see Yazdchi v. JP Morgan Chase Bank, N.A.*, No. 01-17-00301-CV, 2017 WL 2255773, at *1 (Tex. App.—Houston [1st Dist.] May 23, 2017, no pet.) (mem. op.).

Because the record filed in this Court did not show that he had obtained permission of the local administrative judge, the Clerk of this Court notified Moody that his appeal was subject to dismissal unless, within thirty days of the date of the order, he filed proof that he had obtained an order from the appropriate local administrative judge permitting the filing of this appeal. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 11.1035(b) (West 2017); TEX. R. APP. P. 42.3; *see also Potts v. Burger*, No. 01-14-00909-CV, 2015 WL 222125, at *1–2 (Tex. App.—Houston [1st Dist.] Jan. 15, 2015, no pet.) (mem. op.) (dismissing appeal after providing notice of intent to dismiss when vexatious-litigant appellant did not provide copy of order permitting filing of appeal). Moody responded with a motion requesting additional time to respond to this Court’s notice. We granted appellant’s motion and extended the time to respond. Moody then filed a second motion for additional time, stating that he had filed his “Motion Requesting Permission to File [His] Appeal” with the local administrative judge. On October 23, 2017, the local administrative judge denied

Moody’s request “to file additional litigation or pursue his claims in appellate cause number 01-17-00492-CV.”² *Moody v. Success Auto Sales, L.L.C.*, No. 2016-58409 (189th Dist. Ct., Harris County, Tex. Oct. 23, 2017); *see* TEX. CIV. PRAC. & REM. CODE ANN. § 11.102(d) (providing local administrative judge may grant vexatious litigant permission to file litigation only if it appears that litigation has merit and has not been filed for purposes of harassment or delay).

Accordingly, we conclude that the Court does not have jurisdiction over Moody’s attempted appeal and dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a), 43.2(f); *see also* *Kastner v. Harris Cty.*, No. 01-12-00504-CV, 2013 WL 1618325, at *1–2 (Tex. App.—Houston [1st Dist.] Apr. 16, 2013, no pet.) (mem. op.) (dismissing appeal when court records showed local administrative judge denied appellant’s request for permission to continue appeal). And, we dismiss as moot Moody’s “Second Motion for Extension of Time to File To Show Cause of Proof to Obtain Administrative Judges Order Permitting the Filing of This Appeal.”

PER CURIAM

Panel consists of Justices Keyes, Brown, and Lloyd.

² Appellant has not sought mandamus review of the administrative judge’s order. *See* TEX. CIV. PRAC. & REM. CODE ANN. §§ 11.102(f), 11.103(d) (West 2017); *Parker v. McLaurin*, No. 01-13-00606-CV, 2013 WL 5498151, at *1 (Tex. App.—Houston [1st Dist.] Oct. 1, 2013, no pet.) (mem. op.) (explaining appellate court did not have jurisdiction because local administrative judge’s order was not appealable order and appellant had not filed petition for writ of mandamus within thirty days of order).