

Cause No. 048-259817-12

MELVIN PEYTON,  
Plaintiff,

v.

JUDGES; MELODY WILKINSON,  
FRED DAVIS AND ATTORNEY  
JOHN C. GALLIANI AND THE  
STATE OF TEXAS  
Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT

OF TARRANT COUNTY, TEXAS

48TH JUDICIAL DISTRICT

**ORDER DECLARING MELVIN PEYTON A VEXATIOUS LITIGANT**

On August 17, 2012, in accordance with TEX. CIV. PRAC. REM. CODE § 11.053, this Court held a hearing on the State of Texas' Motion to Declare Melvin Peyton a Vexatious Litigant. The Court having reviewed the motion, pleadings, the law, evidence and arguments of all parties, enters the following order:

On June 15, 2012, Melvin Peyton filed this lawsuit, claiming federal civil rights violations against the State of Texas and alleging violations of 42 U.S.C. §§ 1983 and 1985, and seeking criminal charges under 18 U.S.C. § 242, because a District Court judge dismissed one of Melvin Peyton's cases, Cause No. 017-254163-11, while that case was pending in the 17th Judicial District Court of Tarrant County.

In the instant suit, Melvin Peyton makes the conclusory assertion that the State of Texas conspired with other defendants "to commit fraud, Discrimination [sic], and civil rights violations against" Melvin Peyton.

These assertions are unaccompanied by the pleading of any actions alleged to have been taken by the State of Texas, or any explanation of how any action of the State of Texas caused any alleged injury to Melvin Peyton.

Despite the absence of such allegations of fact, Melvin Peyton seeks the following relief: “\$2,000,000 (Two million dollars) to be paid by the State of Texas.”

Over the last few years, Melvin Peyton has filed this and numerous other *pro se* suits against various individuals and entities, all growing out of a single property damage case in Small Claims Court. This list includes, but is not limited to the following notable cases:

1. *Melvin Peyton v. Albert Sanchez; of 'Do All Service Co.' and Van Nadarajah;* originally in the Justice of the Peace Court, Precinct Seven of Tarrant County, Texas; Cause Number JP-07-10-SC5633. In this case, Melvin Peyton commenced, prosecuted, and maintained this litigation *in propria persona* against Sanchez and Nadarajah, alleging damage to Melvin Peyton's property due to “overspray” which arose when a neighbor painted a fence. Judge Thomas C. Corbin, Justice of the Peace for Precinct Seven of Tarrant County made rulings with which Melvin Peyton disagreed. This litigation was later transferred to a different judge for further proceedings.
2. *Peyton v. Thomas C. Corbin and the State of Texas;* originally in the Justice of the Peace Court, Precinct Seven of Tarrant County, Texas, 63rd Judicial District; Cause Number JP-07-10-SC5866. In this case, Melvin Peyton commenced, prosecuted, and maintained this litigation *in propria persona* against the State of Texas and other defendants, alleging violations of 42 U.S.C. § 1983, when Judge Corbin made rulings with which Melvin Peyton disagreed in the *Sanchez* litigation. As with the instant case, Melvin Peyton's assertions were unaccompanied by the pleading of any actions alleged to have been taken by the State of Texas, or any explanation of how any action of the State of Texas caused

any alleged injury to Melvin Peyton. The State of Texas raised the issue of sovereign immunity, and that legal issue was finally determined adversely to Melvin Peyton on April 29, 2011 by Judge Gary Ritchie.

3. *Peyton v. Judge Lisa Woodard, Marjerie Alexander, Jacqueline Sergeant, and State of Texas*; originally in the Justice of the Peace Court, Precinct Eight of Tarrant County, Texas, 63rd Judicial District; Cause Number SC7176. In this case, Melvin Peyton commenced, prosecuted, and maintained this litigation *in propria persona* against the State of Texas and other defendants, alleging violations of 42 U.S.C. § 1983, when Judge Woodard made rulings with which Melvin Peyton disagreed in the *Corbin* litigation. As with the instant case, Melvin Peyton's assertions were unaccompanied by the pleading of any actions alleged to have been taken by the State of Texas, or any explanation of how any action of the State of Texas caused any alleged injury to Melvin Peyton. The legal issue of the sovereign immunity of the State of Texas was finally determined adversely to Melvin Peyton on April 29, 2011 by Judge Gary Ritchie, concurrently with Judge Ritchie's dismissal of Melvin Peyton's *Corbin* litigation.
4. *Melvin Peyton v. Judge Gary Ritchie, et. al.*; In the United States District Court for the Northern District of Texas, Fort Worth Division; Civil Action No. 4:11-cv-291-Y. In this case, Melvin Peyton commenced, prosecuted, and maintained this litigation *in propria persona* against the State of Texas and other defendants, alleging violations of 42 U.S.C. §§ 1983 and 1985, and seeking criminal charges under 18 U.S.C. § 242, when Judge Ritchie made rulings with which Melvin Peyton disagreed in the *Corbin* and *Woodard* litigation, and when Judge Woodard

made rulings in the *Corbin* litigation, and when Judge Corbin made rulings in the *Sanchez* litigation. As with the instant case, Melvin Peyton's assertions were unaccompanied by the pleading of any actions alleged to have been taken by the State of Texas, or any explanation of how any action of the State of Texas caused any alleged injury to Melvin Peyton. The State of Texas raised the issue of sovereign immunity and Melvin Peyton's lack of standing based on his failure to plead any facts, and those legal issues were finally determined adversely to Melvin Peyton on August 12, 2011. United States District Judge Terry R. Means, entering the opinion, specifically informed Melvin Peyton that he lacked standing to bring his lawsuit against the State of Texas because his lawsuit did not plead any specific facts against the State of Texas, and also that sovereign immunity barred his claims. In response, Melvin Peyton tried to amend this lawsuit tried to add Judge Means as a defendant.

5. *Melvin Peyton v. United States, District Court of the Northern District of Texas; Terry R. Means, Jorge A. Solis, Irma C. Ramirez and Sally Helmer; US Atty.*; In the United States District Court for the Northern District of Texas, Fort Worth Division; Civil Action No. 4:11-cv-569-A. Following his unsuccessful attempt to add Judge Means to the *Ritchie* litigation, Melvin Peyton commenced, prosecuted, and maintained this litigation *in propria persona* against United States District Judge Terry R. Means, alleging violations of 42 U.S.C. §§ 1983 and 1985, and seeking criminal charges under 18 U.S.C. § 242, when Judge Means made rulings with which Melvin Peyton disagreed in the *Ritchie* litigation. The legal issue of

judicial immunity was finally determined adversely to Melvin Peyton on August 18, 2011.

6. *Melvin Peyton v. Jon C. Gallini*; In the 17th Judicial District of Tarrant County, Texas; Cause No. 017-254163-11. Melvin Peyton commenced, prosecuted, and maintained this litigation *in propria persona* against Jon C. Gallini for his legal representation of Van Nadarajah in the initial *Sanchez* case. This litigation was finally determined adversely to Melvin Peyton when Judge Fred Davis, sitting in for Judge Melody Wilkinson, dismissed Melvin Peyton's litigation.

Following the dismissal of the *Gallini* litigation, Melvin Peyton commenced, prosecuted, and maintained the instant litigation *in propria persona* against the State of Texas and other defendants, again alleging violations of 42 U.S.C. §§ 1983 and 1985, and seeking criminal charges under 18 U.S.C. § 242, based on rulings made by Judges Davis and Wilkinson in the *Gallini* litigation with which Melvin Peyton disagreed.

Trial courts have consistently dismissed Melvin Peyton's cases against the State of Texas for want of subject matter jurisdiction based on (1) sovereign immunity and (2) lack of Melvin Peyton's standing to bring suit against the State of Texas, based on failure to allege any facts involving the actions of the State of Texas.

~~Courts cannot allow litigants to abuse the judicial system and harass their victims without consequence.~~ <sup>MDL</sup> Accordingly, the Court **FINDS** that Melvin Peyton is <sup>vexatious</sup> such a litigant and his ~~conduct is subject to review and action by this Court.~~  
within the meaning of Chapter 11, TCPRC.

~~Chapter 11 of the CIVIL PRACTICE AND REMEDIES CODE provides this Court with the authority to prevent Melvin Peyton from using the judicial system to retaliate against and harass the State of Texas or any judge who dares rule adversely to Melvin Peyton's personal desires.~~

**ORDER**

Chapter 11 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE governs suits brought by vexatious litigants. The Court may, on defendant's motion or *sua sponte*, designate a party as a vexatious litigant. TEX. CIV. PRAC. REM. CODE § 11.101.

A party may be declared a vexatious litigant if there **is not** a reasonable probability that he will prevail in litigation **and** the party has a history of filing or repeatedly re-litigating, in propria persona, any of the issues of fact or law determined or concluded by the final termination against the same defendant as to whom the litigation was finally determined. See TEX. CIV. PRAC. REM. CODE § 11.054(2). *and § 11.054*

As discussed above, Melvin Peyton does not allege or produce any evidence to establish a waiver of the sovereign immunity of the State of Texas with respect to his claims, nor does Melvin Peyton have standing to bring any cause of action against the State of Texas because he has once again failed to plead any actions allegedly taken by the State of Texas.

Accordingly, after reviewing the record and all the pleadings in the case, this Court **FINDS** that there **IS NOT** a reasonable probability that Melvin Peyton will prevail.

The Court also **FINDS** that Melvin Peyton has commenced at least three *pro se* actions against the State of Texas that have been finally determined against him based on sovereign immunity.

*and at least five other litigations within the meaning of Section 11.054 of the T.C.P.R.C. in the time period specified there in all of which were determined adversely to Plaintiff.*

The Court also **FINDS** that Melvin Peyton has commenced at least one *pro se* action against the State of Texas that has been finally determined against him based on Melvin Peyton's lack of standing to bring suit against the State of Texas, because of failure to allege any facts involving the actions of the State of Texas.

The Court also **FINDS** that Melvin Peyton is attempting to relitigate the cause of action and /or any issue of fact or law against the State of Texas.

The Court **ORDERS** that **MELVIN PEYTON** is prohibited from filing *in propria* persona any new litigation in a court in this state without first being granted permission to file by the local administrative judge, pursuant to TEX. CIV. PRAC. REM. CODE § 11.101. Such permission shall be granted only if the litigation appears to have merit and is not filed for purposes of harassment or delay; such permission may also be conditioned on the furnishing of a security.

**MELVIN PEYTON** is hereby **NOTIFIED** that he is subject to punishment for contempt if he fails to obey this pre-filing order.

The Court further **ORDERS** that the Clerk of the Court is directed to notify the Office of Court Administration for the State of Texas of this Court's declaration of Melvin Peyton as a vexatious litigant.

Finally, the Court **ORDERS** that proceedings in this matter are hereby stayed; that **MELVIN PEYTON** is **ORDERED** to provide security to Defendant the State of Texas by posting a bond with this Court in the amount of \$ 10,000.00 to cover reasonable expenses incurred in connection with the litigation commenced by Melvin Peyton, including costs and attorney's fees; that, if Melvin Peyton fails to post a \$ 10,000.00 bond within ~~seven~~<sup>thirty</sup> calendar days of the signing of this Order, then this suit will be dismissed in its entirety, pursuant to TEX. CIV. PRAC. REM. CODE § 11.056.

August 30, 2012  
Date

  
JUDGE PRESIDING