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APPENDIX A

Case: 17-80256 01/19/2018 DktEntry: 4

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

In re:

CHARLES G. KINNEY

Respondent.

FILED

JAN 19 2018

MOLLY C. DWYER, CLERK

U.S. COURT OF APPEALS

ORDER

Before: WALLACE, SILVERMAN, and BYBEE,
Circuit Judges.

On December 28, 2017, this court issued an order directing the respondent to show cause why the following pre-filing review order should not be entered, restricting his future filings in this court. Upon review of respondent's response to the order to show cause (Docket Entry No. 3), we hereby direct the Clerk to enter the following pre-filing review order.

No motions for reconsideration, rehearing, clarification, or any other submissions relating to this order shall be filed or entertained in this closed docket.

Respondent's failure to comply with the order shall result in any new appeals or petitions he

seeks to file being dismissed or not being filed and other sanctions being levied against respondent, such as a monetary judgment or a judgment of contempt, as the court may deem appropriate.

Pre-Filing Review Order

(1) This pre-filing review order shall apply to all notices of appeal and petitions filed by respondent, in whole or in part, if he proceeds pro se. This order shall not apply to appeals in which respondent has counsel or where the district court has expressly certified in its order that the appeal is not frivolous. Should respondent fail to comply with any of the provisions of this pre-filing review order, the Clerk shall not file the document and shall return the document to respondent, informing him of the deficiencies and granting him 14 days to correct the deficiency.

(2) Each notice of appeal and petition filed by respondent shall comply with the requirements of the Ninth Circuit Rules and the Federal Rules of Civil and Appellate Procedure, especially Federal Rule of Civil Procedure 54(b) and Federal Rule of Appellate Procedure 4(a), and shall contain the following sentence in capital letters "THIS NOTICE OF APPEAL IS FILED SUBJECT TO PRE-FILING REVIEW ORDER No. 17-80256" in the body of the notice of appeal or petition.

(3) Each of respondent's future notices of appeal and petitions shall include a copy of the order(s) of the district court from which he is appealing, a short and plain statement of the facts or law on

which he will rely for the purposes of the appeal, and a statement that he has not previously appealed this order or raised this issue in a prior appeal.

(4) If respondent's future notices of appeal or petitions are submitted in compliance with this order, the Clerk shall lodge the notice of appeal or petition and accompanying documents. The Clerk shall not file the appeal or petition or establish a presumptive schedule for the certificate of record, briefing, or transcripts except upon further order of the court. The court will review respondent's submissions and determine whether they merit further review and whether they should be filed.

(5) This pre-filing review order shall remain in effect until further order of this court. Respondent may, no earlier than March 2, 2020, petition the court to lift this pre-filing review order, setting forth the reasons why the order should be lifted.

APPENDIX B

Case: 17-80256 12/28/2017 DktEntry: 2

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

In re:

CHARLES G. KINNEY

Respondent.

FILED

DEC 28 2017

MOLLY C. DWYER, CLERK

U.S. COURT OF APPEALS

ORDER

Before: WALLACE, SILVERMAN, and BYBEE,
Circuit Judges.

This court's records reflect that, since 2013, respondent Charles G. Kinney has initiated the following litigation in this court:

13-17187 – dismissed for lack of jurisdiction;
13-55126 – dismissed in part; affirmed in part;
attorneys' fees awarded against Kinney, who
“lacked an objectively reasonable basis for seeking
removal”;
13-70276 – petition for writ of mandamus denied;
14-17357 – summarily affirmed;
14-56757 – summarily affirmed; Kinney warned
that filing of frivolous appeals in the future may
result in sanctions;
15-16184 – summarily affirmed;

15-55546 – dismissed in part; summarily affirmed in part; Kinney warned that filing of frivolous appeals in the future may result in sanctions;
16-56320 – dismissed for lack of jurisdiction;
16-56322 – dismissed for lack of jurisdiction;
16-16689 – affirmed without oral argument;
16-17255 – affirmed without oral argument;
16-55343 – affirmed without oral argument;
16-55347 – affirmed without oral argument;
16-56162 – affirmed without oral argument;
16-56733 – affirmed without oral argument;
16-56735 – affirmed without oral argument;
16-56750 – affirmed without oral argument;
17-55081 – affirmed without oral argument;
17-55899 – pending;
17-56356 – pending; and
17-16988 – pending.

Respondent's practice of burdening this court with meritless litigation justifies careful oversight of respondent's future litigation in this court.

The Supreme Court has recognized that "every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the [c]ourt's responsibility is to see that these resources are allocated in a way that promotes the interests of justice. The continual processing of the [appellants'] frivolous requests . . . does not promote that end." *In re McDonald*, 489 U.S. 180, 184 (1989). This court faces the same problems of limited resources in handling its large volume of appellate litigation.

Therefore, the respondent, Charles G. Kinney, shall respond and show cause within 21 days after the date of this order why this court should not enter the following pre-filing review order. See *Visser v. California*, 919 F.2d 113, 114 (9th Cir. 1990) ("This court has the inherent power to restrict a litigant's ability to commence abusive litigation"); see also *Wolfe v. George*, 486 F.3d 1120 (9th Cir. 2007) (concluding no constitutional right to file frivolous litigation, and upholding California vexatious litigant statute). If respondent fails to file a timely response to this order, the Clerk shall forthwith enter the pre-filing review order regardless of further filings by respondent.

Should the pre-filing review order be entered, respondent's failure to comply with the order shall result in any new appeal(s) he seeks to file being dismissed or not being filed and other sanctions being levied against respondent, such as a monetary judgment or a judgment of contempt, as the court may deem appropriate.

Pre-Filing Review Order

(1) This pre-filing review order shall apply to all notices of appeal and petitions filed by respondent, in whole or in part, if he proceeds pro se. This order shall not apply to appeals in which respondent has counsel or where the district court has expressly certified in its order that the appeal is not frivolous. Should respondent fail to comply with any of the provisions of this pre-filing review order, the Clerk shall not file the document and

shall return the document to respondent, informing him of the deficiencies and granting him 14 days to correct the deficiency.

(2) Each notice of appeal and petition filed by respondent shall comply with the requirements of the Ninth Circuit Rules and the Federal Rules of Civil and Appellate Procedure, especially Federal Rule of Civil Procedure 54(b) and Federal Rule of Appellate Procedure 4(a), and shall contain the following sentence in capital letters "THIS NOTICE OF APPEAL IS FILED SUBJECT TO PRE-FILING REVIEW ORDER No. 17-80256" in the body of the notice of appeal or petition.

(3) Each of respondent's future notices of appeal and petitions shall include a copy of the order(s) of the district court from which he is appealing, a short and plain statement of the facts or law on which he will rely for the purposes of the appeal, and a statement that he has not previously appealed this order or raised this issue in a prior appeal.

(4) If respondent's future notices of appeal or petitions are submitted in compliance with this order, the Clerk shall lodge the notice of appeal or petition and accompanying documents. The Clerk shall not file the appeal or petition or establish a presumptive schedule for the certificate of record, briefing, or transcripts except upon further order of the court. The court will review respondent's submissions and determine whether they merit further review and whether they should be filed.

(5) This pre-filing review order shall remain in effect until further order of this court. Respondent may, no earlier than March 2, 2020, petition the court to lift this pre-filing review order, setting forth the reasons why the order should be lifted.