

United States Court of Appeals
for the Fifth Circuit

Appendix "B"

No. 21-20612

MICHAEL G. PETERS,

Plaintiff—Appellant,

versus

KENNETH M. HOYT; STATE OF TEXAS,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:21-CV-3470

CLERK'S OFFICE:

Under 5TH CIR. R. 42.3, the appeal is dismissed as of January 18, 2022, for want of prosecution. The appellant failed to timely pay the filing fee.

LYLE W. CAYCE
Clerk of the United States Court
of Appeals for the Fifth Circuit



By: _____
Donna L. Mendez, Deputy Clerk

ENTERED AT THE DIRECTION OF THE COURT



A True Copy
Certified order issued Jan 18, 2022

Lytle W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

KENNETH HOYT
4:21-CV-3470

Appendix "A"

United States District Court
Southern District of Texas
ENTERED
October 31, 2021
Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MICHAEL G. PETERS, § CIVIL ACTION NO.
(TDCJ-CID #02019190) § 4:21-cv-3470
Plaintiff, §

vs. § JUDGE CHARLES ESKRIDGE

JUDGE KENNETH M.
HOYT, et al., §

Defendants. §

ORDER OF DISMISSAL

This civil action is DISMISSED WITHOUT PREJUDICE for the reasons stated in the Memorandum on Dismissal entered this same day.

The case will be reinstated if Peters pays the \$402 filing fee within thirty days of the entry of this Order.

SO ORDERED.

Signed on October 31, 2021, at Houston, Texas.



Hon. Charles Eskridge
United States District Judge

ENTERED

October 31, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MICHAEL G. PETERS,
(TDCJ-CID #02019190)
Plaintiff,

vs.

JUDGE KENNETH M.
HOYT, *et al.*,
Defendants.

§ CIVIL ACTION
§ NO. 4:21-cv-3470

§ JUDGE CHARLES ESKRIDGE

MEMORANDUM ON DISMISSAL

The complaint by Plaintiff Michael G. Peters is dismissed as barred by the three-strikes provision of 28 USC § 1915(g). Dkt 1. His motion to proceed *in forma pauperis* is denied for the same reason.

Peters is an inmate of the Stringfellow Unit of the Texas Department of Criminal Justice—Correctional Institutions Division. He proceeds here *pro se*. He sues Hon Kenneth M Hoyt (as judge of the United States District Court for the Southern District of Texas) and the State of Texas. He alleges that Judge Hoyt is corrupt because he imposed a strike under the three-strikes provision of 28 USC § 1915(g). He asserts that Judge Hoyt is retaliating against Peters for exposing political and corporate criminal activity. He seeks \$300,000 in compensatory damages.

Peters hasn't paid any filing fee. And so a threshold issue is whether he can proceed *in forma pauperis*. A prisoner isn't allowed to do so if federal courts have dismissed three or more prior civil actions or appeals for frivolousness, maliciousness, or failure to state a claim upon which relief may be granted. But this bar doesn't apply if the prisoner is in imminent danger of serious physical injury. 28 USC § 1915(g).

A national prisoner index shows that Peters has filed at least sixty-one petitions for a writ of *habeas corpus* and civil-rights suits since 2015. And at least three of those lawsuits have been dismissed as frivolous. See *Peters v Gilbert*, Civil Action 4:15-2762 (SD Tex) (dismissed as frivolous in October 2015); *Peters v Texas Medical Board*, Civil Action 4:15-2858 (SD Tex) (dismissed as frivolous and for failure to state claim in October 2015); and *Peters v Texas Children's Hospital, et al*, Civil Action 4:15-2900 (SD Tex) (dismissed as malicious and for failure to state claim in October 2015).

Nothing in his pleadings shows that Peters faces the type of “imminent danger of serious physical injury” that supports an exception to the payment of the filing fee. 28 USC § 1915(g). As such, the three-strikes provision of 28 USC § 1915(g) bars the filing of this complaint without payment of fees. Peters may still proceed in this action, but he must pay the requisite filing and other fees.

The motion to proceed *in forma pauperis* is DENIED. Dkt 3.

The complaint by Plaintiff Michael G. Peters is DISMISSED WITHOUT PREJUDICE as barred by the three-strikes provision of 28 USC § 1915(g). Dkt 1. The complaint will be reinstated if Peters pays the \$402 filing fee within thirty days of the entry of this Order.

Any other motions are DENIED AS MOOT.

The Clerk of Court must SEND a copy of this Order to the Manager of the Three-Strikes List for the Southern District of Texas at Three_Strikes@txs.uscourts.gov.

SO ORDERED.

Signed on October 31, 2021, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge