

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

April 17, 2023

Lyle W. Cayce
Clerk

No. 22-20406

JERRY WILSON, *also known as* STEVE VIC PARKER,

Plaintiff—Appellant,

versus

WILLIAM STEPHENS; BRAD LIVINGSTON; JONI WHITE;
CHARLEY VALDEZ; P. S. BAGGETT; PROGRAM SPECIALIST RUDI
MARTINEZ,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:13-CV-3522

Before WIENER, ELROD, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Plaintiff Jerry Wilson, also known as Steve Vic Parker, moved to “re-vive” a default judgment he says he obtained. The district court denied the motion, explaining that his original complaint was dismissed without prejudice because he was previously barred from filing any prisoner *pro se* filing for violating the three-strike rule contained in 28 U.S.C. § 1915(g). *See Wilson v.*

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 22-20406

Stephens, No. 4:13-CV-3522, ECF 62 (S.D. Tex. July 20, 2022); *see also id.* ECF 15 (July 15, 2014) (dismissing the original complaint). Wilson appeals the denial of that motion and moves to proceed *in forma pauperis*.

The district court was correct that there is no judgment to be revived because Wilson's complaint was dismissed. We are therefore required to dismiss the appeal as frivolous because Wilson fails to present an issue that is arguable on the merits. 28 U.S.C. § 1915(e)(2)(B)(i); *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

DISMISSED.

The motion to proceed *in forma pauperis* is DENIED AS MOOT.

ENTERED

July 21, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JERRY WILSON, a/k/a STEVE VIC
PARKER, TDCJ #00590690,

Plaintiff,

VS.

WILLIAM STEPHENS, *et al.*,

Defendants.

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CIVIL ACTION NO. H-13-03522

ORDER


On July 15, 2014, the Court dismissed this civil rights case filed by Texas state inmate Jerry Wilson, a/k/a Steve Vic Parker, because he was a three-strike litigant barred under 28 U.S.C. § 1915(g) from proceeding *in forma pauperis* in any civil action or appeal while incarcerated and did not meet the imminent danger exception. *See* Doc. No. 15.

Wilson/Parker has filed another motion seeking to “revive” a default judgment. Doc. No. 61. As the Court has previously explained, Wilson/Parker’s claims were dismissed without prejudice eight years ago and, contrary to his contentions, he did not win his case, by default or otherwise. Therefore, his pending motion to revive a default judgment (Doc. No. 61) is **DENIED**.

It is **SO ORDERED**.

The Clerk will enter this Order and provide a copy to all parties of record.

SIGNED at Houston, Texas, this 20th day of July 2022.

A handwritten signature in black ink, appearing to read 'Andrew S. Hanen', written over a horizontal line.

ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE

ENTERED

October 05, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISIONJERRY WILSON; aka STEVE VIC PARKER, §
TDCJ #00590690, §

Plaintiff, §

VS. §

CIVIL ACTION NO. H-13-3522 §

WILLIAM STEPHENS, *et al*, §

Defendants. §

ORDER

On July 15, 2014, the Court dismissed this civil rights case filed by Texas state inmate Jerry Wilson, a/k/a Steve Vic Parker, because he was a three-strike litigant barred under 28 U.S.C. § 1915(g) from proceeding *in forma pauperis* in any civil action or appeal while incarcerated and did not meet the imminent danger exception. *See* Doc. No. 15. The Fifth Circuit dismissed his appeal on November 4, 2014 for want of prosecution. *See* Doc. No. 34.

Wilson/Parker recently filed motions seeking execution of a judgment and declaratory judgment against the defendants, falsely contending that he obtained a default judgment against them. Doc. Nos. 56 & 57. However, the record is clear: Wilson/Parker's claims were dismissed without prejudice over seven years ago. Contrary to his contentions, he did not win his case, by default or otherwise.

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

1. Plaintiff's Motion Requesting the Court to Order Executory Judgment (Doc. No. 56) and Plaintiff's Motion Requesting Declaratory Judgment (Doc. No. 57) are **DENIED**.
2. To the extent that the plaintiff challenges the calculation of his sentence and contends that he is being restrained in his liberty unlawfully, his pending Emergency Motion for a

Preliminary Injunction and Restraining Order (Doc. No. 58) is **DENIED** without prejudice to such challenge to the calculation of his sentence being asserted in a properly filed petition for a writ of habeas corpus.

The Clerk will enter this Order and provide a copy to all parties of record.

SIGNED at Houston, Texas, this 4th day of October 2021..

A handwritten signature in black ink, appearing to read 'Andrew S. Hanen', written over a horizontal line.

ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**