

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 11th day of September, two thousand twenty-three.

Present:

Richard J. Sullivan,
Steven J. Menashi,
Sarah A. L. Merriam,
Circuit Judges.

Christopher Daniel Everson,

Plaintiff-Appellant,

v.

23-790

Commissioner of Corrections, et al.,

Defendants-Appellees.

Appellant, proceeding pro se, moves under Federal Rule of Appellate Procedure 5 for permission to appeal the district court's denial of his motion to vacate the district court's judgment. Upon due consideration, it is ORDERED that the motions are DENIED as unnecessary and the appeal is DISMISSED because it "lacks an arguable basis in law or fact." *Neitzke v. Williams*, 490 U.S. 319, 327 (1989).

Appellant has filed a number of frivolous matters in this Court, including the appeals docketed under 19-882, 21-17, 21-228, and 23-790. Accordingly, Appellant is hereby warned that the continued filing of duplicative, vexatious, or clearly meritless appeals, motions, or other papers related to the February 2009 judgment issued in District of Connecticut Case No. 3:04CV00387(RNC) could result in the imposition of a sanction that would require Appellant to obtain permission from this Court prior to filing further submissions in this Court (a "leave-to-file" sanction). See *In re Martin-Trigona*, 9 F.3d 226, 229 (2d Cir. 1993); *Sassower v. Sansverie*, 885 F.2d 9, 11 (2d Cir. 1989).

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court



Catherine O'Hagan Wolfe

Appendix B

U.S. District Court

District of Connecticut

Notice of Electronic Filing

The following transaction was entered on 4/10/2023 at 9:26 AM EDT and filed on 4/10/2023

Case Name: Everson v. Commissioner Of Corrections et al

Case Number: 3:04-cv-00387-RNC

Filer:

WARNING: CASE CLOSED on 02/04/2009

Document Number: 179(No document attached)

Docket Text:

ORDER denying [178] Motion to Vacate. Plaintiff moves to vacate the judgment entered in this case on February 4, 2009. The arguments presented in support of the motion were previously presented to this Court and the Court of Appeals in this case to no avail. For this Court to grant the motion would violate the mandate issued by the Court of Appeals following its dismissal of plaintiff's last appeal in this case. See ECF No. 177. Granting the motion would also be at odds with decisions of the Court of Appeals in related litigation in which plaintiff sought to avoid the preclusive effect of the 2009 judgment. See Everson v. Commissioner,

Hamber, CL 00218
2514 Townwalk Drive
Christopher Everson

3:04-cv-00387-RNC Notice has been delivered by other means to:

Carlisle G. B. Texidor carlisle.texidor@ct.gov Grace Z. Ciompi@ct.gov Vanessa Laro@ct.gov

3:04-cv-00387-RNC Notice has been electronically mailed to:

127

Appendix B