

bounds of discretion. Third, and perhaps most persuasively, under AKIN, the court must impose the least severe sanction adequate. Surely, the appellant does not appear to pose the same threat as some of the distinguished recreational litigants previously referred to. Finally, Hill has now had the adequate warning alluded to in Moody, and should be able to file another frivolous claim in the future, then adequate grounds to assess a severe sanction would be present.

CONCLUSION

THE JUDGMENT BELOW IS A UNIQUE DEPARTURE FROM DECISIONS OF THIS COURT AND ITS SISTER CIRCUITS THAT REQUIRE A LESS SEVERE SANCTION AVAILABLE BEFORE IMPOSING A PREFILED INJUNCTION. AS SUCH, IT REPRESENTS A BREACH IN THE WELL ERECTED BY THE FIRST AND FIFTH AMENDMENT TO THE CONSTITUTION AND THE DECISIONS OF THIS COURT AND ITS SISTER CIRCUITS THAT WERE DESIGNED TO PROTECT A CITIZEN FROM BEING DENIED ACCESS TO THE COURTS.

THIS PETITION FOR WRIT OF HABEAS CORPUS SHOULD, THEREFORE, BE GRANTED.

RESPECTFULLY SUBMITTED

D. E. Hill

DANIEL E. HILL 12585-007

U.S.P. FLORENCE-MAX.

P.O. BOX. 8500

FLORENCE, CO. 81226