

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 21, 2023

No. 23-30279
Summary Calendar

Lyle W. Cayce
Clerk

RONNY LEE THOMAS,

Plaintiff—Appellant,

versus

TONY R. MOORE, *Sheriff Officer Lieutenant*; STEVE PRATOR, *Sheriff Department Chief*,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:22-CV-6232

Before ELROD, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:*

Ronny Lee Thomas appeals the district court's dismissal with prejudice of his pro se 42 U.S.C. § 1983 action as frivolous and malicious under 28 U.S.C. § 1915(e)(2)(B)(i). We review the district court's dismissal

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

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under § 1915(e)(2)(B)(i) for an abuse of discretion. *See Shakouri v. Davis*, 923 F.3d 407, 410 (5th Cir. 2019).

An action may be dismissed as frivolous or malicious if it duplicates claims raised by the same plaintiff in previous or pending litigation. *See Pittman v. Moore*, 980 F.2d 994, 994-95 (5th Cir. 1993); *Wilson v. Lynaugh*, 878 F.2d 846, 850 (5th Cir. 1989); *Bailey v. Johnson*, 846 F.2d 1019, 1021 (5th Cir. 1988). The district court noted that Thomas's complaint was duplicative of a federal action he had previously filed, which had been dismissed with prejudice. Thomas has not shown that the district court abused its discretion in dismissing his complaint on that basis. *See Shakouri*, 923 F.3d at 410; *Bailey*, 846 F.2d at 1021.

Accordingly, the judgment of the district court is AFFIRMED.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

RONNY LEE THOMAS

CIVIL ACTION NO. 22-6232

VS.

SECTION P

JUDGE S. MAURICE HICKS, JR.

TONY R. MOORE, ET AL.

MAG. JUDGE KAYLA D. MCCLUSKY

REPORT AND RECOMMENDATION

Plaintiff Ronny Lee Thomas, who proceeds pro se and in forma pauperis, filed this proceeding on approximately December 15, 2022, under 42 U.S.C. § 1983. He names Lieutenant Tony R. Moore and Sheriff Department Chief Steve Prator as defendants.¹ For reasons below, the Court should dismiss this proceeding as duplicative.

Background

Plaintiff claims that Chief Steve Prator is ordering Lieutenant Tony R. Moore, who “is over” a sex offender program, to force Plaintiff to register as a sex offender for life. [doc. # 1, p. 4]. Stating that his plea agreement from 1989 did not require him to register as a sex offender for life, Plaintiff alleges that defendants have altered his “transcript to appear different from” his 1989 judgment. *Id.* Plaintiff also mentions—in the portion of the form pleading which prompted him to describe the amount in controversy in this proceeding—that for the last six years he has paid “unlaw[ful] fines to the department.” *Id.*

¹ This matter has been referred to the undersigned for review, report, and recommendation under 28 U.S.C. § 636 and the standing orders of the Court.

Plaintiff asks the Court to order defendants to remove him from the “list to register as a sex offender[,]” reimburse him for payments “made to the department[,]” and compensate him for pain and suffering. *Id.*

Law and Analysis

“IFP complaints may be dismissed as frivolous . . . when they seek to relitigate claims which allege substantially the same facts arising from a common series of events which have already been unsuccessfully litigated by the IFP plaintiff.” *Wilson v. Lynaugh*, 878 F.2d 846, 850 (5th Cir. 1989). Likewise, a case is duplicative if it involves “the same series of events” and allegations of “many of the same facts as an earlier suit.” *Bailey v. Johnson*, 846 F.2d 1019, 1021 (5th Cir. 1988). Moreover, “it is malicious for a pauper to file a lawsuit that duplicates allegations of another pending” suit by the same plaintiff. *Pittman v. Moore*, 980 F.2d 994, 995 (5th Cir. 1993) (internal quotation marks omitted); *see Lewis v. Sec'y of Pub. Safety & Corr.*, 508 F. App'x 341, 344 (5th Cir. 2013); *Bailey*, 846 F.2d at 1021 (“[A]n IFP complaint that merely repeats pending or previously litigated claims may be considered abusive and dismissed under . . . section 1915(d).”).²

District courts are “‘vested with especially broad discretion’ in determining whether such a dismissal is warranted.” *Bailey*, 846 F.2d at 1021.

Here, Plaintiff’s allegations are substantially similar to, and arise from the same series of events as, claims he raised in a proceeding that he filed before he filed the instant action: *Ronny Thomas v. Caddo Parish Sex Offender Registration*, 5:21-cv-4029 (W.D. La. 2021). There, Plaintiff alleged that he entered a plea bargain in 1989, in which he was not required to register

² Subsection (e)(2)(B) in the current version of 28 U.S.C. § 1915 was in subsection “(d)” in a previous version of the statute.

as a sex offender for life. *Id.* at Doc. 1, p. 4. He claimed that a deputy with the Caddo Sheriff's Department required him to register as a sex offender for life even though the state court judge did not order him to register and even though he completed his sentence in 1998. *Id.* at 5-6. Echoing his claim in the instant proceeding that defendants altered his "transcript to appear different from" his 1989 judgment, he claimed in the prior proceeding that "the department" fabricated false documents, attempting to change his 1989 sentence. *Id.* at 6. And, like his statement in the instant proceeding that he is forced to pay unlawful fines, he stated in the prior proceeding that he had to "come to the department every three '3' months" to pay fees. *Id.* at 6.

On February 18, 2022, the court dismissed Plaintiff's prior complaint with prejudice. *Id.* at Doc. 11. Plaintiff appealed, and on June 2, 2022, the Fifth Circuit Court of Appeals dismissed the appeal for want of prosecution. *Id.* at Doc. 13.

Plaintiff's claims here are therefore duplicative, frivolous, and malicious.³ The Court should dismiss them with prejudice.⁴

Recommendation

For the reasons above, **IT IS RECOMMENDED** that Plaintiff Ronny Lee Thomas's claims be **DISMISSED WITH PREJUDICE** as duplicative, frivolous, and malicious.

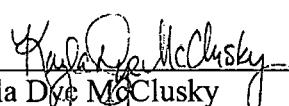
³ Section 1915(e)(2)(B) applies equally to prisoners and non-prisoners when the plaintiff proceeds in forma pauperis. *See Newsome v. Equal Employment Opportunity Commission*, 301 F.3d 227, 231-33 (5th Cir. 2002) (affirming the dismissal, under 28 U.S.C. § 1915(e)(2)(B)(i), of non-prisoner claims as frivolous).

⁴ That Plaintiff names different defendants in this proceeding does not change the result. *See Lewis*, 508 Fed. App'x at n.2; *Bailey*, 846 F.2d at 1021 (affirming dismissal where the "complaint repeats the same factual allegations that [the plaintiff] asserted in his earlier case, although he successively sued different defendants."); *Wesley v. LeBlanc*, 815 F. App'x 817, 818 (5th Cir. 2020) (affirming dismissal as duplicative and malicious where the plaintiff alleged that a new defendant, who he did not name in prior lawsuits, was the only person who could adequately afford him the relief he sought); *Brown v. Louisiana*, 2010 WL 5582940, at *3 (W.D. La. Dec. 1, 2010).

Under the provisions of 28 U.S.C. § 636(b)(1)(C) and Rule 72(b), parties aggrieved by this recommendation have **fourteen (14) days** from service of this Report and Recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within **fourteen (14) days** after being served with a copy of any objections or response to the district judge at the time of filing.

Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this Report and Recommendation within fourteen (14) days following the date of its service, or within the time frame authorized by Fed. R. Civ. P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. See *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

In Chambers, Monroe, Louisiana, this 13th day of January, 2023.



Kayla Dye McClusky
United States Magistrate Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

RONNY LEE THOMAS

CIVIL ACTION NO. 22-6232

VS.

SECTION P

JUDGE S. MAURICE HICKS, JR.

TONY R. MOORE, ET AL.

MAG. JUDGE KAYLA D. MCCLUSKY

JUDGMENT

The Report and Recommendation of the Magistrate Judge having been considered, no objections thereto having been filed,¹ and finding that same is supported by the law and the record in this matter,

IT IS ORDERED, ADJUDGED, AND DECREED that Plaintiff Ronny Lee Thomas's claims are **DISMISSED WITH PREJUDICE** as duplicative, frivolous, and malicious.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 17th day of April, 2023.



JUDGE S. MAURICE HICKS, JR.
UNITED STATES DISTRICT JUDGE

¹ The Court notes that on the same day the Report and Recommendation was issued, Plaintiff filed a Response in Support of his Complaint. See Record Document 5. While the Court does not construe this filing as written objections, the Court nonetheless reviewed the arguments contained therein. Having considered this, the Court finds that the arguments presented do not change the Court's analysis or findings contained in the Report and Recommendation.

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