

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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DUNCAN J. McNEIL, III,

Petitioner,

v.

UNITED STATES AND ITS  
OFFICERS AND AGENCIES;  
CLERK, U.S. DISTRICT COURT,  
W.D. WI; CLERK, U.S. BANKRUPTCY  
COURT, W.D. WI; U.S. ATTORNEY,  
W.D. WI; OFFICE OF U.S. TRUSTEE,  
W.D. WI; U.S. MARSHAL SERVICE,  
W.D. WI; FBI, W.D. WI; IRS, W.D. WI;  
SECRET SERVICE, W.D. WI; and their  
officers,

Respondents.  
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ORDER

05-C-400-C

In an order dated July 11, 2005, I denied petitioner leave to proceed in forma pauperis in this action on the ground that petitioner is barred by 28 U.S.C. § 1915(g), the three-strikes statute, from proceeding in any civil action in a federal district court without prepaying the \$250 filing fee unless he is in imminent danger of serious physical injury. In the July 11 order, I found that petitioner's complaint did not allege any credible facts from

which an inference may be drawn that he is under imminent danger of serious physical injury. I told petitioner that if, by August 2, 2005, he failed to pay the fee for filing this case, the case would be closed. Also, I told petitioner that even if the case is closed, he must still pay the \$250 filing fee when he has the means to do so. Newlin v. Helman, 123 F.3d 429, 436-437 (7th Cir. 1997). Subsequently, petitioner requested and received an enlargement of time to September 2, 2005, in which to pay the fee. Now that time has passed and petitioner still has not paid the fee. Instead, he has filed a flurry of documents, including a “First Amended Verified Complaint,” “Ex Parte Motion for Findings that Plaintiff is Under Imminent Danger of Serious Physical Injury, Not a Prisoner, Not Restricted by the Three Strikes Provision,” “Ex Parte Motions for Order Granting Judicial Notice of the Attached Writ of Obedience, Entry of Judgment Granting Full Faith & Credit to the Attached Writ. . . ,” “Ex Parte Motion to Amend Complaint to Common Law Action in the Aid of Foreign Judgment. . . ,” and “Second Amended Verified Complaint . . . .”

In the meantime, on August 9, 2005, the District Court for the Eastern District of Washington notified this court and all of the district courts in the United States that petitioner is subject to a “pre-filing” order in that venue because of his unrelenting frivolous and harassing litigation. According to the Washington court, it has learned that because petitioner is now subject to a pre-filing order there, he has begun “flooding” the district courts “in up to 70 different judicial districts throughout the nation,” with his vexatious litigation.

McNeil v. United States, CV-05-211-AAM, WL 1915842 (E.D. Wash.). Unaware of petitioner's history, some of those courts are transferring petitioner's actions to the Washington district court.

This court does not intend to transfer petitioner's case to the Eastern District of Washington. Nor will it allow petitioner to carry on his vexatious litigation here. He has offered no credible reason to believe he is under imminent danger of physical injury. Therefore, his motions will be summarily denied and this case closed for his failure to pay the \$250 filing fee.

#### ORDER

IT IS ORDERED that petitioner's "Ex Parte Motion for Findings that Plaintiff is Under Imminent Danger of Serious Physical Injury, Not a Prisoner, Not Restricted by the Three Strikes Provision," "Ex Parte Motions for Order Granting Judicial Notice of the Attached Writ of Obedience, Entry of Judgment Granting Full Faith & Credit to the Attached Writ. . ." and "Ex Parte Motion to Amend Complaint to Common Law Action in the Aid of Foreign Judgment. . ." are DENIED.

The clerk of court is directed to close this file and notify the warden of the Spokane

County Jail of petitioner's obligation to pay the \$250 filing fee when he has the means to pay it.

Entered this 12th day of September, 2005.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge