

FILED
GILBERT SANCHEZ
DISTRICT CLERK
IN THE 210TH DISTRICT COURT
EL PASO COUNTY, TEXAS

2008 FEB 26 PM 3 57

EL PASO COUNTY, TEXAS
BY: *[Signature]*
DEPUTY
2007-2271

JAMES LEE SWEED, Petitioner §
§
Vs. §
§
JAY L. NYE, ATTORNEY and TEXAS §
EQUAL ACCESS TO JUSTICE §
FOUNDATION, Defendants. §

**ORDER GRANTING DEFENDANT JAY L. NYE'S MOTION FOR SANCTIONS
FOR FRIVOLOUS PLEADING AND DECLARING PLAINTIFF A
VEXATIOUS LITIGANT AND REQUIRING SECURITY**

On the 3rd day of October, 2007, came on to be heard in the above styled and numbered cause the Motions for Summary Judgment of both Plaintiff and Defendant as well as Jay L. Nye's Motion for Sanctions for Frivolous Pleading and Declaring Plaintiff a Vexatious Litigant and Requiring Security. Plaintiff appeared in person pro se, and announced ready. Defendant JAY L. NYE appeared in person pro se, and announced ready.

After hearing all evidence and argument of counsel the Court is of the opinion that following should be ordered.

The Court makes the following findings:

As to Chapter 9 of the Texas Civil Practice and Remedies Code, the Court finds that the pleadings of the Plaintiff were signed in violation of Section 9.011 in that the pleadings were groundless, brought in bad faith, and for the purpose of harassment.

As to Chapter 10 of the Texas Civil Practice and Remedies Code, the Court finds that the pleadings of the Plaintiff were signed in violation of Section 10.001 in that the pleadings were brought for improper purposes including the harassment of Defendant; that none of the allegations or factual contentions has any evidentiary support.

As to Chapter 11 of the Texas Civil Practice and Remedies Code, the Court finds that there is no reasonable probability that Plaintiff will prevail in this litigation against Defendant, and that the Plaintiff is a Vexatious Litigant in that he has filed multiple lawsuits against Defendant NYE and others in excess of five litigations and grievances,

other than in Small Claims Court, in the seven-year period immediately preceding the date that Defendant **NYE** filed this Motion under Section 11.051, which litigations and grievances have been determined adversely to Plaintiff and which determinations the Plaintiff has repeatedly re-litigated or attempted to re-litigate, in propria persona, the validity of the determination against the same Defendant as to whom the litigation was finally determined.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this lawsuit brought by Plaintiff is deemed a frivolous lawsuit and therefore shall be and is hereby dismissed with prejudice pursuant to Sections 9 and 10 of the Texas Civil Practice and Remedies Code and Rule 13 of the Texas Rules of Civil Procedure.

The Court further finds Pursuant to Section 11 of the Texas Civil Practice and Remedies Code that Plaintiff **JAMES LEE SWEED** is a vexatious litigant in that he has filed multiple lawsuits against Mr. Nye and others. The Court therefore orders that Plaintiff **SWEED** pay into the registry of the court the amount of five thousand dollars (\$5,000.00) within ten (10) days of the date of this order as security for the benefit of Defendant **NYE** if **MR. SWEED** wishes to pursue this case or any other case. This order applies to any future proceedings against Defendant **NYE** as well as any other party or parties against whom Plaintiff **SWEED** wishes to file suit. The Court further orders that Plaintiff **Sweed** pay any and all costs of court and other expenses incurred by Defendant **NYE**. Failure to deposit said security is additional grounds for the dismissal of the suit.

The Court instructs the District Clerk of El Paso County to not allow Plaintiff **JAMES LEE SWEED** to file any further litigation without first depositing security in the amount above mentioned into the Registry of the Court. Further, the Clerk shall notify the Office of Court Administration of the Texas Judicial System that this Order has been entered.

The Office of Court Administration of the Texas Judicial System shall add Plaintiff **JAMES LEE SWEED** to its list of vexatious litigants and annually send said list to the Clerk's of the Courts of this State.

The Court reserves the right to enter any and all further orders under the Texas Rules of Civil Procedure to enforce this order.

SIGNED AND ENTERED this 20 day of February, 2008.

Donzalo Parra
JUDGE ○