

**CAUSE NO. 2018-25707**

VEXAO

<b>MAURICE DEMOND MOSELY, et al.,</b>	§	<b>IN THE DISTRICT COURT OF</b>
<b>Plaintiffs,</b>	§	
	§	
v.	§	<b>HARRIS COUNTY, TEXAS</b>
	§	
<b>ED GONZALEZ et al.,</b>	§	
<b>Defendants.</b>	§	<b>151ST JUDICIAL DISTRICT</b>

**ORDER DETERMINING DAVID LORENZA JOYNER A  
VEXATIOUS LITIGANT AND REQUIRING SECURITY**

Before the Court came to be considered Judges Terry Flenniken Nikita Harmon, Brent Gamble, George Powell, Susan Brown and Vanessa Velasquez’s request that David Lorenza Joyner be declared a vexatious litigant. Defendant Judges have pending before this Court their plea to the jurisdiction and motion to dismiss the First Amended Petition suit pursuant to Chapters 13.001 and 14.003, Tex. Civ. Prac. & Rem. Code on the ground that it has no basis in law. Essentially, David Joyner, as well as the other plaintiffs, bring suit complaining of the judges’ various rulings, omissions or failure to rule in cases assigned to them in the course of their judicial duties.

**The Vexatious Litigant Statute**

Chapter 11 of the Texas Civil Practice and Remedies Code governs suits brought by vexatious litigants and specifies that a Court, on defendant’s motion or sua sponte, may designate a party as a vexatious litigant. See TEX. CIV. PRAC. & REM. CODE § 11.101.

A Court may declare a party to be a vexatious litigant if there is not a reasonable probability that he will prevail in litigation and the party has a history of filing or repeatedly re-litigating unsuccessful or frivolous suits. TEX. CIV. PRAC. & REM. CODE § 11.054. In making its determination, the Court will look at the seven-year period preceding the filing of the litigation, to

determine whether the plaintiff has “commenced, prosecuted, or maintained at least five litigations as a pro se litigant” that have been “finally determined adversely to the plaintiff,” or have been determined “by a trial or appellate court to be frivolous or groundless under state or federal law or rules of procedure.” A Court may also find a plaintiff to be a vexatious litigant if state or federal court has previously declared the plaintiff a vexatious litigant in an action or proceeding based on the same or substantially similar facts, transaction, or occurrence. See Id.

**No Reasonable Probability of Prevailing in the Cause of Action**

This Court, after reviewing the record, the pleadings, and applicable precedent, has determined that there is not a reasonable probability that David Lorenza Joyner will prevail in this litigation against judges, premised on his challenge to their judicial rulings, omissions or failure to rule as set out in detail in their pending motion to dismiss. The Court also finds that David Joyner has a history of filing or repeatedly re-litigating unsuccessful or frivolous suits.

**David Lorenza Joyner’s Previous Litigation History**

During the seven-year period immediately preceding the filing of this suit, Mr. Joyner has “commenced, prosecuted, or maintained at least five litigations as a pro se litigant.” Id. These cases have been “finally determined adversely” to him or have been determined “by a trial or appellate court to be frivolous or groundless under state or federal law or rules of procedure.” Id. A review of public records reveals the unsuccessful litigation history of Mr. Joyner, of which the court takes judicial notice of pursuant to Tex. R. Evid. 201(b)<sup>1</sup>.

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<sup>1</sup> **Tex. R. Evid. 201 (b) Kinds of Facts That May Be Judicially Noticed.**

The court may judicially notice a fact that is not subject to reasonable dispute because it:

- (1) is generally known within the trial court’s territorial jurisdiction; or
- (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

After reviewing the record, Mr. Joyner, pleadings, and the applicable authorities, the Court FINDS that David Lorenza Joyner meets the requirements of a vexatious litigant as detailed in Chapter 11 of the Civil Practice and Remedies Code.

## FINDINGS

The Court FINDS:

(1) David Lorenza Joyner was provided a copy of defendant judges' motion to declare him a vexatious litigant by mail to the address he provided in pursuing this litigation-the Harris County Jail. Neither Mr. Joyner nor any of the other plaintiffs filed a response.

(2) There is not a reasonable probability that Mr. Joyner will prevail in the current litigation.

(3) During the past seven year period, Mr. Joyner has "commenced, prosecuted, or maintained at least five litigations as a pro se litigant" that have been "finally determined adversely to him.", as required by Tex. Civ. Prac. & Rem. Code 11.054(1).

(4) David Lorenza Joyner meets the criteria of a vexatious litigant.

(6) The Court bases its findings on the litigation history set out, summarized and supported by defendants' 20 exhibits listed on pages 29-30, attached to their motion of which the Court takes judicial notice pursuant to Tex. R. Evid. Rule 201(b). This litigation history is as follows:

**Exhibit 1** *Joyner v. EFH Corp*, Dismissed for Want of Prosecution July 14, 2016

**Exhibit 2** *Joyner v. Ash*, Dismissed as frivolous February 12, 2012

**Exhibit 3** *Joyner v. GHH*, Dismissed for Want of Prosecution July 20, 2011

**Exhibit 4** *Joyner v. Judge Hittner*, Dismissed July 14, 2016 for failure to pay fees

**Exhibit 5** *Joyner v. Garcia*, Dismissed May 17, 2011

**Exhibit 6** *In re Joyner*, Court of Appeals No. 01-17-00248, Mandamus denied June 14, 2017

- Exhibit 7** *In re Joyner*, Court of Appeals No. 01-17-0053, Mandamus denied April 11, 2017
- Exhibit 8** *In re Joyner*, Court of Appeals No. 14-11-00919, Mandamus denied Nov. 3, 2011
- Exhibit 9** *In re Joyner*, Court of Appeals No. 14-11-00858, Mandamus denied Jan. 24, 2012
- Exhibit 10** *Joyner v. State of Texas*, COA No. 14-11-00807, Conviction Affirmed March 26, 2013
- Exhibit 11** *Joyner v. State of Texas*, COA No. 14-11-00808, Appeal Dismissed Nov. 15, 2011
- Exhibit 12** *Ex Parte Joyner*, COA No. 14-11-00775, Appeal Dismissed Nov. 15, 2011
- Exhibit 13** *In re Joyner*, Court of Appeals No. 14-11-00719, Mandamus dismissed Sept. 22, 2011
- Exhibit 14** *In re Joyner*, Court of Appeals No. 14-11-00689, Mandamus dismissed Aug. 23, 2011
- Exhibit 15** *In re Joyner*, Court of Appeals No. 14-11-00678, Mandamus dismissed Aug. 16, 2011
- Exhibit 16** *Joyner v. State of Texas*, COA No. 14-11-00618, Appeal Dismissed April 12, 2012
- Exhibit 17** *In re Joyner*, Court of Appeals No. 11-11-00537-540, Mandamus denied July 11, 2011
- Exhibit 18** *Joyner v. Harris County Sheriff*, No. H-17-1717. The Court dismissed Joyner's Petition for removal on June 28, 2017 and dismissed Joyner's Second Petition for removal on November 6, 2017 (ECF 7).
- Exhibit 19** *Joyner v. Ogg et al.*, (Harris County 125th District Court No. 2017-27416 dismissed July 25, 2017).
- Exhibit 20** *Joyner v. Judge George Powell et al.*, (Harris County 269th District Court No. 2018-05781, docket sheet indicating dismissal on 11/12 2018).

### **ORDER**

Accordingly, the Court ORDERS David Lorenza Joyner adjudicated to be a vexatious litigant. The Court ORDERS that David Lorenza Joyner be and is prohibited from filing new litigation in a state court without first obtaining permission from the appropriate local administrative judge. See TEX. CIV. PRAC. & REM. CODE §11.101. The administrative judge will grant permission to file only if the litigation appears to have merit and is not filed for purposes of harassment or delay. The administrative judge may condition such permission on the furnishing

of a security. The Court also admonishes David Lorenza Joyner. that if he fails to obey this order, he may be sanctioned or found in contempt and subject to punishment. The Court ORDERS the Harris County District Clerk to refuse the filing of any new litigation by David Lorenza Joyner unless he first obtains written permission from the appropriate local administrative judge. ~~In addition, the Court ORDERS that David Lorenza Joyner must post \$\_\_\_\_\_ by April 1, 2018 before he can proceed further in the present litigation, as provided by Tex. Civ. Prac. & Rem. Code 11.055.~~

~~Sec. 11.055. SECURITY. (a) A court shall order the plaintiff to furnish security for the benefit of the moving defendant if the court, after hearing the evidence on the motion, determines that the plaintiff is a vexatious litigant.~~

~~(b) The court in its discretion shall determine the date by which the security must be furnished.~~

~~(c) The court shall provide that the security is an undertaking by the plaintiff to assure payment to the moving defendant of the moving defendant's reasonable expenses incurred in or in connection with a litigation commenced, caused to be commenced, maintained, or caused to be maintained by the plaintiff, including costs and attorney's fees.~~

Signed this \_\_\_\_ day of \_\_\_\_\_ 2019.

Signed:  
7/23/2019



\_\_\_\_\_  
PRESIDING DISTRICT JUDGE



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this July 24, 2019

Certified Document Number: 86316246 Total Pages: 5

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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