

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PINAL

FILED
AMANDA STANFORD
CLERK OF SUPERIOR COURT
2015 FEB -6 PM 3:49
BY DP
DEPUTY

IN THE MATTER OF PROHIBITING)
DALE MAISANO FROM)
FILING AN LAWSUITS IN)
PINAL COUNTY WITHOUT OBTAINING)
PERMISSION FROM THE COURT)
_____)

ADMINISTRATIVE ORDE
2015 00009

Multiple Petitions filed by Dale Maisano were recently assigned to a single Commissioner/Judge Pro Tem, who observed a pattern of conduct and referred the Petitions to this division to determine whether Maisano should be designated as a vexatious litigant. Upon review of multiple lawsuits that were recently filed by Maisano, and considering all the matters presented, the Court makes the following findings and orders regarding Dale Maisano:

Our courts "possess inherent authority to curtail a vexatious litigant's ability to initiate additional lawsuits." *Madison v. Groseth*, 230 Ariz. 8, 15, 279 P.3d 633, 639 (App. 2012). The filing excesses of vexatious litigants interfere with the orderly administration of justice by diverting judicial resources from those cases filed by litigants willing to follow court rules and those meritorious cases that deserve prompt judicial attention. See *Acker v. C.S. Chevira*, 188 Ariz. 252, 934 P.2d 816 (App. 1997). The Court can normally control filing abuses by the rules of professional responsibility applicable to attorneys or by the imposition of monetary sanctions, including attorney's fees. However, these avenues are not generally used when addressing a self-represented or pro se litigant.

In fact, the Arizona State Legislature recently enacted A.R.S. §12-3201 to address the filing abuses and to outline the manner in which a pro se litigant may be designated as a vexatious litigant. Vexatious conduct is defined as: "(1) repeated filing of court actions solely or primarily for the purpose of harassment; (2) unreasonably expanding or delaying court proceedings; (3) court actions brought or defended without substantial justification; (4) engaging in abuse of discovery or conduct in discovery that has resulted in the imposition of sanctions against the pro se litigant; (5) a pattern of making unreasonable, repetitive and excessive requests for information; or (6) repeated filing of documents or requests for relief that have been the subject of previous rulings by the court in the same litigation." See A.R.S. §12-3201(C).

A review of the pleadings filed by Maisano reveals that he has filed ten (10) Petitions for Writ of Habeas Corpus/Petition for Special Actions within the past three years. Maisano two (2) Petitions for Writ of Habeas Corpus in 2013, two (2) Petitions for Writ of Habeas Corpus in 2012, one (1) Petition for Writ of Habeas Corpus in 2011, and one (1) Emergency Special Action in 2007, which was subsequently dismissed. Notably, in 2014, Maisano filed five (5) Petitions for Writ of Habeas Corpus/Petition for Special Action within a period of four (4) months.

In addition, in his Petition for Writ of Habeas Corpus filed in CV201401440, Maisano states “[t]his Petitioner has filed 4000 cases in U.S. Dist. Ct; from 6-6-13 – 2-20-14. All everyone of those cases are now at issue in this action. Welcome to my world.” Upon a cursory and summary review of matters filed by Maisano in the U.S. District Court, this estimate appears fairly accurate. After a review of the Petitions filed in this Court, they are incoherent and seek relief that cannot be granted, i.e., requests to immediately remove case to the Arizona Supreme Court.

Below is a summary of the cases filed by Maisano in 2014:

- On May 1, 2014, Maisano filed an “Emergency Writ of Habeas Corpus” but does not allege any facts showing he is entitled to immediate release. On May 9, 2014, the Court denied the Petition.
 - On May 29, 2014, Maisano filed an “Emergency Notice of Appeal State Court of Appeals.” On June 6, 2014, the Court treated the Motion as a request to reconsider and denied the motion. The Court noted that if Maisano desired an Appeal, the appropriate pleading must be filed.
 - On June 19, 2014, Maisano filed a “2nd Emergency Notice of Appeal to: State Court of Appeals.” The Clerk of the Court then transmitted the record to the Arizona Court of Appeals, Division II for review.
 - On September 23, 2014, the Court of Appeals issued an Order dismissing the appeal for Maisano’s failure to comply with the Court of Appeals’ August 26, 2014 Order. (CV201401187)

- On June 4, 2014, Maisano filed a “Writ of Habeas Corpus” and attached nearly 700 pages of attachments. In this particular Writ, Maisano states “[t]his Petitioner has filed 4000 cases in U.S. Dist. Ct; from 6-6-13 – 2-20-14. All everyone of those cases are now at issue in this action. Welcome to my world.” He further asserts that he has been awaiting movement to a medical unit and has been moved to worse conditions.
 - On June 19, 2014, before any ruling had been made, Maisano filed “Notice of Appeal to State Supreme Court.” The Clerk of the Court then transmitted the record to the Arizona Court of Appeals, Division II for review.
 - Once on appeal, Maisano claimed that the Court of Appeals “lacked venue” and that the case “must be moved to the Arizona Supreme

- Court.” On September 12, 2014, the Court of Appeals interpreted Maisano’s assertions as a withdrawal of the appeal and dismissed the appeal.
- On September 26, 2014, Maisano then filed an “Order to Show Cause” in this Court to address why this matter has not been moved to the Arizona Supreme Court; however, this Court did not have jurisdiction insofar as a Mandate had not yet been issued.
 - On November 26, 2014, the Court of Appeals issued the Mandate to this Court and the matter was returned to this Court’s jurisdiction. (CV201401440)
- On June 20, 2014, Maisano filed a “Petition: Writ of Habeas Corpus” requesting to be “set free from the oppressive respondents.”
 - On September 5, 2014, Maisano filed a “Notice of Appeal: Move Action Forthwith To: Arizona State Supreme Court.” The Court denied his Petition insofar as no ruling/judgment had been rendered on the Petition and directed the Petition to the appropriate division for review.
 - On September 26, 2014, Maisano filed a “Request this Action be Moved Forthwith To: Arizona Supreme Court” and asserted that the Court is “dysfunctional” and that the matter be moved to the Arizona Supreme Court.
 - After a recusal, this matter was reassigned on December 10, 2014. (CV201401569)
 - On August 13, 2014, Maisano filed an “Emergency Special Action” in which he asserted that he has been denied proper medical/dental care. On December 10, 2014, this matter was reassigned. (CV201401948)
 - On August 13, 2014, Maisano filed an “Emergency Special Action” in which he asserted that he has been denied access to the Courts and legal counsel. On October 1, 2014, Maisano filed a “Request This Case Moved Forthwith to AZ. Sup. Ct.,” however, such request is entirely improper.¹
 - On December 12, 2014, the Court ordered that a filing fee be applied to Maisano’s filing or Maisano would need to apply for a deferral of fees; otherwise, the matter would be dismissed without prejudice.

Based on a review of these matters, and in light of his conduct in other courts, this Court finds Maisano to be a vexatious litigant. The Court may issue an order limiting such a litigant’s ability to file future lawsuits, motions, and requests for relief to the extent necessary to curtail the improper conduct. The Court finds

¹ Moreover, as a result of Maisano’s multiple filings and legal actions, the October 1, 2014 Request was not associated with the proper file until recently.

the orders set out below to be the least restrictive orders that will adequately address Maisano's established pattern of abuse.

Given all of the circumstances, IT IS ORDERED as follows:

1. Maisano may not file any new causes of action after the date of this order without leave of the Civil Presiding Judge or his/her designee.
2. Maisano may not file any new pleading, motion or any other document in any non-criminal case in which judgment concluding the case has been entered without leave of the Civil Presiding Judge or his/her designee.²

Any motion for leave to file shall be captioned "Application Pursuant to Court Order Seeking Leave to File." Maisano must either cite this order in his application, or attach as an exhibit a copy of this order.

If approval for filing a new action is granted, the Clerk of Court may accept subsequent filings in that cause number from Maisano.

Dated this 6th day of February, 2015


Hon. Stephen F. McCarville, Presiding Judge

Original: Filed with the Clerk of the Superior Court
Copies To: Superior Court Judges
Clerk of the Superior Court
Hon. Stephen F. McCarville, Presiding Judge
Hon. Kevin D. White, Associate Presiding Judge
Hon. Daniel A. Washburn CV201401949
Hon. Lawrence M. Wharton, CV201401187
Hon. Karen J. Stillwell, CV201401948, CV201401440, V201401569
Rick Lewis, Court Administrator
Dale Maisano

² Maisano is not required to seek leave of Court before filing a "Notice of Appeal" to the Arizona Court of Appeals.