

**FILED**

Chris Daniel  
District Clerk

Pg: 3

NOV 24 2014

Time: 4:21 pm  
Harris County, Texas

No. 2014-18121

**DAVID CONKLIN, TDCJ-ID #1901118,  
Plaintiff**

vs.

**HENRIETTA WRIGHT,  
Defendant**

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**IN THE DISTRICT COURT OF**

**HARRIS COUNTY, TEXAS**

**281st JUDICIAL DISTRICT**

*DKR*

*VEXAO*

**ORDER**

David Conklin, TDCJ-ID #1901118 (Conklin) is currently an inmate incarcerated in Beaumont, Texas. Previously, Conklin was an inmate incarcerated in the Lynchner State Jail in Humble, Texas. In March 2014, Mr. Conklin, pro se, sued Henrietta Wright (Wright), an employee at Lynchner State Jail, alleging that she violated the Uniform Commercial Code (UCC) when she searched his legal material and confiscated written contraband during that search.

On May 5, 2014, Ms. Wright filed a motion asking the Court to declare Mr. Conklin a vexatious litigant. After notice to all parties, Ms. Wright's motion was submitted to the Court. After considering the pleadings of the parties, Conklin's response filed November 14, 2014, and the appropriate authorities, the Court has determined Ms. Wright's motion is meritorious and should be granted.

**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 may, on defendant's motion or *sua sponte*, 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. If the Court finds that, during the seven year period immediately preceding the date the defendant files her motion to declare the plaintiff a vexatious litigant, 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,” the Court may declare the plaintiff to be a vexatious litigant. *See Id*

After considering the pleadings of the parties, the argument of counsel, and the applicable authorities, the Court **FINDS:**

- (1) There is no reasonable probability that Mr. Conklin will prevail on his cause of action against Ms. Wright because his claims lack an arguable basis in law or fact.
- (2) Chapter 14 of the Texas Civil Practice and Remedies Code requires inmates to fully exhaust all administrative remedies through the Texas Department of Criminal Justice’s grievance system before pursuing claims through the judicial system. Any petitions filed with the Court must be accompanied by a written decision from the grievance system.
- (3) Mr. Conklin did not file a written decision from the grievance system with the Court upon the filing of this lawsuit as mandated by the statute; therefore, his claims have no arguable basis in law and have no reasonable chance of success.
- (4) Mr. Conklin has, as a pro se litigant, unsuccessfully commenced at least five lawsuits, excluding filings in small-claims court, in the seven-year period immediately preceding the date of Ms. Wright’s motion.<sup>1</sup>

Accordingly, the Court **ORDERS** Henrietta Wright’s motion to declare David M. Conklin, to be a vexatious litigant **GRANTED**.

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<sup>1</sup> 1) *Conklin v Management & Training Corp, et al*, cause # 6:11-cv-221, US District Court for the Eastern District Tyler Division, dismissed August 9, 2011, Exhibit A at 1;  
2) *Conklin v TDCJ Director Brad Livingston, et al*, cause # 5:12-cv-00067, US District Court for the Western District San Antonio Division, dismissed February 21, 2012, Exhibit A at 2,  
3) *Conklin v Warden E Gutierrez, et al*, cause # 2:12-cv-00020, US District Court for the Southern District Corpus Christi Division, dismissed April 19, 2012, Exhibit A at 3-4;  
4) *Conklin v. Director TDCJ, et al*, cause # 6:11-cv-450, US District Court for the Eastern District Tyler Division, dismissed August 21, 2012, Exhibit A at 5;  
5) *Conklin v. D Randolph*, cause # 1:12-cv-867, US District Court for the Western District Austin Division, dismissed April 8, 2013, Exhibit A at 6;  
6) *Conklin v Sgt Hamez, et al*, cause # 4:13-cv-714, US District Court for the Southern District Houston Division, dismissed June 17, 2013, Exhibit A at 7-12;  
7) *Conklin v D Randolph*, cause # 13-50396, US Court of Appeals for the Fifth Circuit, (appeal from cause number 1:12-cv-867) dismissed February 5, 2014, Exhibit A at 13-17

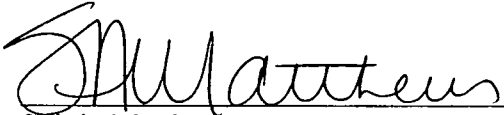
The Court **ORDERS** that David M. Conklin, TDCJ-ID Nos. 1901118, 1732987, 562257, 640752, 1355674 and 1789361<sup>2</sup> is **ADJUDICATED** to be a vexatious litigant.

The Court **ORDERS** David M. Conklin to file security with the Harris County District Clerk in the amount of \$2,500 on or before December 15, 2014. If Mr. Conklin fails to furnish such security within the time set by this Order, the Court will dismiss the above referenced and numbered cause.

The Court **ORDERS** the Harris County District Clerk to refuse to file any litigation presented by David M. Conklin, unless he first obtains an order from the appropriate local administrative judge permitting the filing.

The Court **FURTHER ORDERS** the Harris County District Clerk to forward a copy of this Order to the Office of Court Administration of the Texas Judicial System. *See* TEX. CIV. PRAC. & REM. CODE § 11.104(a).

Signed November 24, 2014

  
Sylvia Matthews  
Judge, 281<sup>st</sup> District Court

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<sup>2</sup> This list of TDCJ numbers belonging to Plaintiff is not exclusive and there may be more numbers identifying Plaintiff.



I, Chris Daniel, 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 November 25, 2014

Certified Document Number: 63301634 Total Pages: 3

Chris Daniel, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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