

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

KEITH RUSSEL JUDD,

Plaintiff,

v.

CASE NO. 11-3104-SAC

**STATE OF KANSAS,
et al.,**

Defendants.

O R D E R

This action was dismissed and all relief was denied by order entered July 15, 2011, on account of plaintiff's failure to pay the filing fee. Mr. Judd is a three-strikes litigant and made no showing of imminent danger. Plaintiff filed a Notice of Appeal, and on October 4, 2011, his appeal was dismissed.

This matter is currently before the court upon another post-judgment motion filed by plaintiff, which generally re-argues his claims and argues new claims. He has also filed a second notice of appeal purportedly to the Supreme Court with respect to the pending post-judgment motion.

The court finds that the post-judgment motion contains no valid ground for relief from judgment or for any of the other orders sought therein. The court further finds that the second notice of appeal filed herein (Doc. 18) is not the proper method

for appealing to the U.S. Supreme Court. Moreover, it is of no effect since a motion is not subject to appeal until it has been ruled upon. Plaintiff cannot file an anticipatory appeal.

To the extent that plaintiff's second notice of appeal has been treated an appeal to the Tenth Circuit Court of Appeals, the court finds it is not taken in good faith. The notice was filed at a time when there was no order from which to appeal and, in any event, no non-frivolous argument for appeal is presented.

IT IS THEREFORE BY THE COURT ORDERED that plaintiff's Motion for Relief from Judgment and other requests for orders contained therein (Doc. 17) are denied.

IT IS FURTHER ORDERED that the court hereby certifies that the second appeal, if any, to the Tenth Circuit Court of Appeals is not taken in good faith.

IT IS SO ORDERED.

Dated this 18th day of September, 2012, at Topeka, Kansas.

s/Sam A. Crow
U. S. Senior District Judge