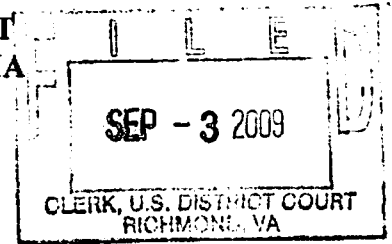


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION



ORLANDO R. HEATH, JR.,

Plaintiff,

v.

Civil Action No. 3:09CV360

NURSE HUDGINS,

Defendant.

MEMORANDUM OPINION

Plaintiff, a federal inmate, submitted this action and requested leave to proceed *in forma pauperis*. A prisoner is prohibited from proceeding *in forma pauperis*:

[I]f the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). This Court has dismissed three of Heath's prior suits as frivolous or for failure to state a claim. *See Heath v. Sanders*, No. 3:08cv471 (E.D. Va. Aug. 26, 2008); *Heath v. Woodruff*, No. 3:01cv439 (E.D. Va. Jan. 18, 2002); *Heath v. Abbasi*, No. 3:00cv373 (E.D. Va. Feb. 22, 2001). The allegations of the complaint do not suggest that Heath "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). Accordingly, by Memorandum Order entered on July 18, 2009, the Court denied Plaintiff's request to proceed *in forma pauperis* and directed Plaintiff to submit the full filing fee within eleven (11) days of the date of entry thereof. Plaintiff has not complied with the July 18, 2009 Order. Accordingly, the action will be dismissed without prejudice.

An appropriate Order shall accompany this Memorandum Opinion.

/s/

Richard L. Williams
United States District Judge

Date: SEP - 3 2009
Richmond, Virginia