

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

TROY DEWYON DREW,

Plaintiff,

v.

Civil Action No. 3:17CV789

JIM O'SULLIVAN, et al.,

Defendants.

MEMORANDUM OPINION

Troy Dewyon Drew, a Virginia inmate, submitted this civil action and applied to proceed in forma pauperis. By Memorandum Order entered on January 19, 2018, the Court granted Drew leave to proceed in forma pauperis. As explained below, further review of Drew's litigation history reveals that Drew is not entitled to proceed in forma pauperis. Accordingly, the portion of the January 19, 2018 Memorandum Order that granted Drew leave to proceed in forma pauperis will be vacated.

The pertinent statute provides:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding [in forma pauperis] if 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). Drew has at least three actions or appeals that have been dismissed as frivolous, malicious, or for failure to state a claim upon which relief could be granted. Drew v. Young, No. 7:02CV00542, 2008 WL 1944132, at *1 n* (W.D. Va. May 2, 2008) (“[P]laintiff has been apprised of his status as a ‘three-striker,’ i.e., his ineligibility to file a civil rights complaint without full pre-payment of the \$350.00 filing fee unless he can show that he is under imminent danger of serious physical injury.” (citing Drew v. McKnight, 7:08-cv-00041 (W.D. Va. Jan. 23, 2008))); see Drew v. Young, 74 F. App’x 275, 275 (4th Cir. 2003) (dismissing appeal as frivolous). Drew’s Particularized Complaint does not demonstrate that he is in imminent danger of serious physical harm.

Accordingly, this Court will dismiss the action without prejudice to Drew refiling the action accompanied by the full \$400.00 filing fee.

The Clerk of the Court is directed to send a copy of this Memorandum Opinion to Drew.

It is so ORDERED.

/s/ *REP*

Robert E. Payne
Senior United States District Judge

Date: *June 5, 2018*
Richmond, Virginia