

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:12-cv-812-RJC**

ROGER LEE DEAL, SR.,)
)
 Plaintiff,)
)
 v.)
)
 NC DEPARTMENT OF)
 CORRECTIONS, Lawrence Parsons,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER is before the Court on its own motion following Plaintiff’s failure to comply with the Court’s Order dated January 15, 2014, requiring Plaintiff to pay the remaining amount owed on the filing fee in this action or to face dismissal of this action.

Pro se Plaintiff Roger Lee Deal, Sr., is an inmate currently incarcerated at Scotland Correctional Institution, in Laurinburg, North Carolina, after being convicted in state court of second degree murder on January 18, 2002. Plaintiff filed this action, pursuant to 42 U.S.C. 1983, on December 10, 2012, naming “NC Department of Corrections” and Lawrence Parsons as Defendants. (Doc. No. 1). Plaintiff alleged that Defendants violated his First Amendment and Eighth Amendment rights based on the following allegations in his Complaint:

I was assault[ed] by a[n] inmate here at Lanesboro and was hit in the mouth w[h]ere my lip was split and my back hurt and after I was out of segregation I started getting threats from other inmates that are in a gang. This was at the first of 2012. I ask[ed] for protective custody and was put back into segregation. My programmer told me that I would not go back on population and would be ship [sic]. Later I was told to pack up I was going back to population, in which I refused because of fear for my safety. I was then put in ICON. [A]fter 6 months they told me I would be getting out because of good behavior, but instead they gave me 6 six more months in ICON. Now I am deny [sic] my First Amendment rights to free exercise of religion to get my Christmas package that was

order[ed] by my daughter April Cruz.

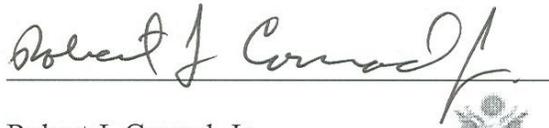
(Doc. No. 1 at 4). As requested relief, Plaintiff asked “[t]o be allow[ed] to get my Christmas package and nominal and punitive damages for a prolong stay in ICON a year for a[n] assault [where] I was not at fault and had my lip sp[l]it open having to go to the hospital to have lip sown up and sever[e] back pain w[h]ere I had L4-L-5 fused by Dr. Price in 2007 in which I now have to take methadone[e] 20 mg three times a day, and any other award that the judge may seem fit.” (Id.).

In an Order dated January 15, 2014, this Court noted that Plaintiff is a frequent filer of civil rights lawsuits and that he has reached three strikes under 28 U.S.C. § 1915(g). (Doc. No. 9). In its Order, the Court found that Plaintiff had not demonstrated in this action that he is under imminent danger of serious physical injury as required by § 1915(g). The Court, therefore, ordered Plaintiff to pay the remaining balance owed on the filing fee within twenty days or the action would be subject to dismissal without further notice to Plaintiff. Plaintiff has failed to pay the filing fee as ordered by this Court or to otherwise respond to the Court’s Order dated January 15, 2014. Because Plaintiff has failed to pay the filing fee, the Court will now dismiss this action under the three strikes rule of 28 U.S.C. § 1915(g).

IT IS, THEREFORE, ORDERED that:

1. This action is **DISMISSED** without prejudice.
2. Plaintiff’s Motion for Summary Judgment, (Doc. No. 8), is **DENIED** as moot.
3. The Court further certifies that an appeal of this Order would not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).
4. The Clerk is directed to terminate this action.

Signed: April 25, 2014

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

