

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                    |   |                          |
|--------------------|---|--------------------------|
| ALVIN SIMMONS, JR, | ) |                          |
|                    | ) |                          |
| Plaintiff,         | ) | Civil Action No. 16-1731 |
|                    | ) |                          |
| v.                 | ) | Judge Cathy Bissoon      |
|                    | ) |                          |
| RALPH SIMMONS,     | ) |                          |
|                    | ) |                          |
| Defendant.         | ) |                          |

**ORDER DISMISSING CASE**

Plaintiff initiated this action by filing a Motion for Leave to Proceed *In Forma Pauperis* on November 17, 2016 (Doc. 1). On November 28, 2016, the Court denied Plaintiff’s Motion under the so-called “three strikes” rule in 29 U.S.C. § 1915(g), as Plaintiff has filed at least three frivolous lawsuits in this district and the instant suit does not allege any imminent physical danger. (Doc. 2.) Thus, the Court’s Order on November 28, 2016 directed Plaintiff to pay the filing fee of \$400.00 by December 30, 2016 should he wish to proceed. The Order further stated that “[i]f he fails to do so, this case will be dismissed for failure to prosecute.” However, as of this date, over a year past the deadline, Plaintiff has not paid the filing fee and has taken no action to prosecute this case other than his initial filing on November 17, 2016.

In light of the foregoing, this action is DISMISSED without prejudice to Plaintiff’s right to reopen it by paying the full \$400.00 filing fee.

IT IS SO ORDERED.

February, 12 2018

s/Cathy Bissoon  
Cathy Bissoon  
United States District Judge

cc (via First-Class U.S. mail):

**ALVIN SIMMONS, JR,**  
2240 Hubbard Rd.  
Youngstown, OH 44505