

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

KEVIN McDONALD,

Petitioner,

v.

Civil Action No. **3:11CV129**

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION

By Memorandum Order entered on February 25, 2011, the Court conditionally docketed Petitioner's action. At that time, the Court directed Petitioner to submit a statement under oath or penalty of perjury that:

- (A) Identifies the nature of the action;
- (B) States his belief that he is entitled to relief;
- (C) Avers that he is unable to prepay fees or give security therefor; and,
- (D) Includes a statement of the assets he possesses.

See 28 U.S.C. § 1915(a)(1). The Court provided Petitioner with an *in forma pauperis* affidavit form for this purpose.

Additionally, the Court directed Petitioner to affirm his intention to pay the full filing fee by signing and returning a consent to the collection of fees form. The Court warned Petitioner that a failure to comply with either of the above directives within thirty (30) days of the date of entry thereof would result in summary dismissal of the action. By Order entered on March 22, 2011, the Court granted Petitioner an extension of time until June 27, 2011 to file the required forms.

Petitioner has not complied with Court's order to return a consent to collection of fees form or an *in forma pauperis* affidavit. As a result, he does not qualify for *in forma pauperis* status. Furthermore, he has not paid the statutory filing fee for the instant complaint. See 28 U.S.C. § 1914(a). Petitioner's actions demonstrate a wilful failure to prosecute. See Fed. R. Civ. P. 41(b). Accordingly, this action will be DISMISSED WITHOUT PREJUDICE.

It is so ORDERED.

<p>/s/</p> <hr/> <p>James R. Spencer Chief United States District Judge</p>

Date: 10-25-11
Richmond, Virginia