

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

ORILLION CRADDOCK,

Plaintiff,

v.

Civil Action No. 3:12CV430

CLYD N. FISHER, et al.,

Defendants.

MEMORANDUM OPINION

Plaintiff, Orillion Craddock, a federal prisoner proceeding pro se, submitted this civil action pursuant to 42 U.S.C. § 1983. By Memorandum Order entered August 20, 2012, the Court directed Craddock to pay an initial partial filing fee of \$31.83 or state under penalty of perjury that he did not have sufficient assets to pay such a fee within eleven (11) days of the date of entry thereof. See 28 U.S.C. § 1915(b)(1). Because Craddock had neither paid the initial partial filing fee nor averred that he could not pay such a fee, on October 5, 2012 the Court dismissed the action without prejudice.

On October 10, 2012, the Court received from Craddock a letter informing the Court that he received the Court's August 20, 2012 Memorandum Order late because the Memorandum Order inadvertently was mailed to Craddock's old address. Craddock notes that he updated his address with the Court in July. With

his letter, Craddock also submits the full initial partial filing fee.

The Fourth Circuit has recognized three grounds for relief under Rule 59(e): "(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993) (citing Weyerhaeuser Corp. v. Koppers Co., 771 F. Supp. 1406, 1419 (D. Md. 1991); Atkins v. Marathon LeTourneau Co., 130 F.R.D. 625, 626 (S.D. Miss. 1990)).

Reviewing the Court's records the Court received Craddock's change of address on July 23, 2012. Moreover, Craddock has now paid the full initial partial filing fee. Thus, to prevent manifest injustice, the Court will reopen the action. The Clerk will be directed to process the initial partial filing fee.

The Clerk is directed to send a copy of the Memorandum Opinion to Craddock.

An appropriate Order shall issue.

/s/ *REP*
Robert E. Payne
Senior United States District Judge

Richmond, Virginia

Date: *December 12, 2012*