

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

MICHAEL HENRY HEARN,

Plaintiff,

v.

Civil Action No. 3:12CV517

UNKNOWN,

Defendant.

MEMORANDUM OPINION

Plaintiff, a Mississippi inmate, submitted this action and requested leave to proceed *in forma pauperis*. The pertinent statute provides:

In no event shall a prisoner bring a civil action [*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). Plaintiff has at least three other actions or appeals that have been dismissed as frivolous or for failure to state a claim. *See, e.g., Hearn v. Warden*, No. 4:05cv18TSL-AGN, 3 n.2 (S.D. Miss. Jan. 28, 2005) (citing cases). Plaintiff's current pleading does not suggest that Plaintiff is in imminent danger of serious physical harm.

By Memorandum Order entered on July 25, 2012, this Court denied Plaintiff's request to proceed *in forma pauperis* and ordered him to submit the full filing fee within eleven (11) days of the date of entry thereof. Plaintiff failed to respond to the July 25, 2012 Memorandum Order.

Accordingly, this action will be DISMISSED WITHOUT PREJUDICE. See Fed. R. Civ. P.

41(b).

An appropriate Order shall issue.

Date: 11/19/12

Richmond, Virginia

/s/ J. J.
John A. Gibney, Jr.
United States District Judge