

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

JOESUPHUS OWENS,

Plaintiff,

v.

Civil Action No. 3:12CV522

KEN STOLLE, et al.,

Defendants.

MEMORANDUM OPINION

By Memorandum Order entered on August 16, 2012, the Court conditionally docketed this 42 U.S.C. § 1983 action. At that time, the Court directed Joesuphus Owens 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 Owens with an in forma pauperis affidavit form for this purpose. The Court warned Owens that a failure to return the in forma pauperis affidavit within thirty (30) days of the date of entry thereof would result in summary dismissal of the action.

Owens has not complied with the order of this Court. Owens failed to return the 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 action.

See 28 U.S.C. § 1914(a). Such conduct demonstrates a willful failure to prosecute. See Fed. R. Civ. P. 41(b). Accordingly, this action will be dismissed without prejudice.

The Clerk is DIRECTED to send a copy of the Memorandum Opinion to Owens.

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

Date: *March 4, 2013*
Richmond, Virginia