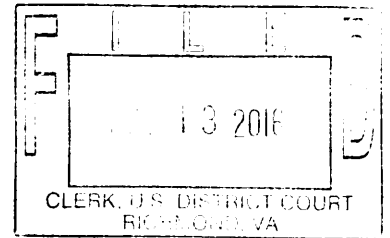


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



KENNETH NEWKIRK,

Plaintiff,

v.

Civil Action No. **3:16CV66**

HENRY HUDSON, et al.,

Defendants.

MEMORANDUM OPINION


Plaintiff, a Virginia 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., Newkirk v. Shaw*, No. 3:14CV426-HEH, 2014 WL 4161991, *3 (E.D. Va. Aug. 19, 2014); *Newkirk v. Cir. Ct. of Hampton*, No. 3:14CV372-HEH, 2014 WL 4072212, at *3 (E.D. Va. Aug. 14, 2014); *Newkirk v. Lerner*, No. 3:13CV364-HEH, 2014 WL 587174, at *2-5 (E.D. Va. Feb. 14, 2014); *Newkirk v. Chappell*, No. 3:13CV73-HEH, 2013 WL 5467232, at *3 (E.D. Va. Sept. 30, 2013). Plaintiff's current complaint does not suggest that Plaintiff is in imminent danger of serious physical harm. Accordingly, by Memorandum Order entered on March 14, 2016, the Court denied Plaintiff's request to proceed *in forma pauperis* and directed him to submit the full \$400.00 filing fee within eleven (11) days of the date of entry thereof.

On March 31, 2016, the United States Postal Service returned the March 14, 2016 Memorandum Order to the Court. The marks on the envelope indicate that Sussex I State Prison forwarded the mail to Plaintiff at Wallens Ridge State Prison. The United States Postal Service then returned the mail to the Court marked, "RETURN TO SENDER," "REFUSED," and "UNABLE FORWARD." Since that date, Plaintiff has not contacted the Court to provide a current address. Plaintiff also failed to pay the \$400.00 filing fee. Plaintiff's failure to contact the Court or to pay the filing fee indicates his lack of interest in prosecuting this action. *See Fed. R. Civ. P. 41(b)*. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall accompany this Memorandum Opinion.

M. Hannah Lauck 
United States District Judge

Date: MAY 13 2016
Richmond, Virginia