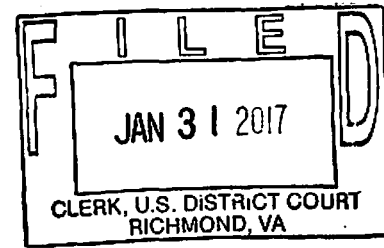


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



MONTE D. WINSTON,

Plaintiff,

v.

Civil Action No. 3:16CV981

FORREST KELLY,

Defendant.

MEMORANDUM OPINION

By Memorandum Order entered on December 22, 2016, the Court conditionally docketed this action. At that time, the Court directed Monte D. Winston 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 Winston with an in forma pauperis affidavit form for this purpose.

Additionally, the Court directed Winston 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 Winston 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.

Winston has not complied with the order of this Court. Winston failed to return the in forma pauperis affidavit and the consent to collection of fees form. 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.

Should Winston wish to pursue criminal charges against Mr. Kelly, he should contact the appropriate office of the United States Attorney.

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

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

Date: January 31, 2017
Richmond, Virginia