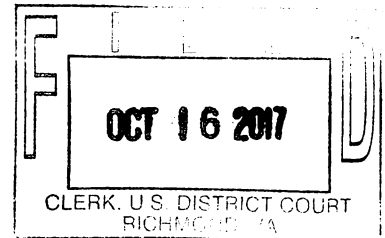


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



OZELIA HICKS, JR.,

Plaintiff,

v.

Civil Action No. 3:17CV406

LAURA S. KHAWAJA,

Defendant.

MEMORANDUM OPINION

By Memorandum Order entered on June 7, 2017, the Court conditionally docketed this action. At that time, the Court directed Ozelia Hicks, Jr. 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 Hicks with an in forma pauperis affidavit form for this purpose.

Additionally, the Court directed Hicks 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 Hicks 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.

Hicks failed to return either form and failed to pay the statutory filing fee for the instant action. See 28 U.S.C. § 1914(a). Accordingly, by Memorandum Opinion and Order entered on July 21, 2017 the Court dismissed the action without prejudice.

Later during the day on July 21, 2017, the Clerk received a Hicks's completed in forma pauperis affidavit and his consent to the collection of fees form; however, the forms were not docketed until July 24, 2017. Because the Court received the completed forms on the same day as the action was dismissed, by Memorandum Order entered on August 8, 2017; the Court vacated the July 21, 2017 Memorandum Opinion and Order and continued to process the action.

By Memorandum Order entered on August 31, 2017, the Court directed Hicks to pay an initial partial filing fee of \$47.46 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). In response to a letter from Hicks, by Memorandum Order entered on September 22, 2017, the Court provided Hicks with another eleven (11) days to pay the initial filing fee. Hicks has neither paid the initial partial filing fee nor averred that he cannot pay such a fee. Therefore, Hicks is not entitled to proceed in forma pauperis. Hick's disregard of the Court's directives warrants dismissal of

the action. Accordingly, the action will be dismissed without prejudice.

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

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

Date: *October 7, 2017*
Richmond, Virginia