

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

JAAMAL FLEMING,
Plaintiff,

v.

Civil Action No. 3:17-cv-00411-JAG

VIRGINIA STATE UNIVERSITY et al.,
Defendants.

OPINION

In 2015, Jaamal Fleming sued Virginia State University and other related parties. The defendants moved to dismiss. This Court granted the motion based on Eleventh Amendment immunity and dismissed the case. *Fleming v. Va. State Univ.*, No. 3:15CV268, 2016 WL 927186 (E.D. Va. Mar. 4, 2016). Fleming appealed. The Fourth Circuit modified the decision to reflect a dismissal without prejudice, but otherwise affirmed the decision. *Fleming v. Va. State Univ.*, 671 F. App'x 117 (4th Cir. 2016). Fleming has now refiled his complaint.

When a plaintiff proceeds without prepaying fees or costs—as the plaintiff does in this case—“the court shall dismiss the case at any time if the court determines that . . . the action . . . fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B); *see Eriline Co. S.A. v. Johnson*, 440 F.3d 648, 656 (4th Cir. 2006). Alternatively, “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” Fed. R. Civ. P. 12(h)(3).

Upon due consideration, the Court dismisses this case for the reasons set forth by the Court in *Fleming v. Va. State Univ.*, 2016 WL 927186, as affirmed by the Fourth Circuit, 617 F. App'x 117. Fleming cannot file this case again in federal court.

The Court will enter an accompanying order.

Let the Clerk send a copy of this Order to the pro se plaintiff.

Date: June 9, 2017
Richmond, VA



John A. Gibney, Jr.
United States District Judge