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

JOHN T. HARDEE, *et al.*,

Plaintiffs,

v. Civil Action No. **3:20CV729**

CHRISTOPHER WALZ, *et al.*,

Defendants.

MEMORANDUM OPINION

By Memorandum Order entered on October 16, 2020, the Court conditionally docketed the action that was filed by Plaintiffs John T. Hardee, Albert C. Eichel, Daniel Smith, Shane Knight, Bryan Herrion, Larry Oliver, Cedric Hammond, Robert Colon, John Morgan, and Markese Lewis. At that time, the Court directed each Plaintiff to affirm his intention to pay the full filing fee by signing by returning a consent to the collection of fees form. The Court warned Plaintiffs that a failure to comply with the above directive within thirty (30) days of the date of entry thereof would result in summary dismissal.

Plaintiffs Smith, Knight, Herrion, Oliver, Hammond, Colon, and Morgan have not complied with the Court's order to return a consent to collection of fees form.[1] As a result, they do not qualify for *in forma pauperis* status. Furthermore, they have not paid the statutory filing fee for the instant action. *See* 28 U.S.C. § 1914(a). Plaintiffs' conduct demonstrates a willful failure to prosecute. *See* Fed. R. Civ. P. 41(b). Accordingly, all claims by Plaintiffs Smith,

[1] Plaintiffs Knight and Oliver moved and failed to provide the Court with an updated address, apparently because they lack any interest in prosecuting this action.

Knight, Herrion, Oliver, Hammond, Colon, and Morgan will be DISMISSED WITHOUT PREJUDICE and they will be terminated as parties to this action.

Plaintiffs also moved for the appointment of counsel. Counsel need not be appointed in § 1983 cases unless the case presents complex issues or exceptional circumstances. *See Fowler v. Lee*, 18 F. App'x 164, 166 (4th Cir. 2001) (citation omitted). At this juncture, this action presents no complex issues or exceptional circumstances. Accordingly, the motion for the appointment of counsel (ECF No. 3) is DENIED WITHOUT PREJUDICE.

An appropriate Order shall accompany this Memorandum Opinion.

/s/
M. Hannah Lauck
United States District Judge

Date: Jan. 8, 2021
Richmond, Virginia