

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

Richmond Division

MATTHEW EDWARD FESSLER,  
Plaintiff,

v.

Civil No. 3:21cv641 (DJN)

DEREK M. FOLSTON, *et al.*,  
Defendants.

**MEMORANDUM OPINION**

By Memorandum Order entered on November 18, 2021, the Court conditionally docketed Plaintiff's action. (ECF No. 3.) At that time, the Court directed Plaintiff to affirm his intention to pay the full filing fee by signing and returning a consent to collection of fees form. The Court warned Plaintiff that a failure to comply with the above directive within thirty (30) days of the date of entry thereof would result in summary dismissal of the action.

Plaintiff has not complied with the Court's order to return a 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 as required by 28 U.S.C. § 1914(a). Plaintiff's conduct demonstrates a willful failure to prosecute. Accordingly, this action will be DISMISSED WITHOUT PREJUDICE pursuant to Federal Rule of Civil Procedure 41(b).

Let the Clerk file a copy of this Memorandum Opinion electronically and send a copy to Fessler.

An appropriate Order shall issue.

/s/



David J. Novak  
United States District Judge

Richmond, Virginia  
Dated: January 26, 2022