

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

SHAWN RICE,

Plaintiff,

v.

Civil Action No. **3:23CV463**

UNKNOWN,

Defendant.

MEMORANDUM OPINION

By Memorandum Order entered on September 5, 2023, the Court conditionally docketed the plaintiff's civil action. At that time, the Court directed the plaintiff 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 the plaintiff with an *in forma pauperis* affidavit form for this purpose.

Additionally, the Court directed the 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 the plaintiff 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.

The plaintiff has not complied with the orders of this Court. The plaintiff failed to return a completed *in forma pauperis* affidavit form and 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. *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.

An appropriate Order shall accompany this Memorandum Opinion.

Date: 24 October 2023
Richmond, Virginia

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| <p>/s/  _____ John A. Gibney, Jr. Senior United States District Judge</p> |
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