

CLERK'S OFFICE U.S. DIST COURT
AT ROANOKE, VA
FILED

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

JAN 10 2006

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ROANOKE DIVISION

BENJAMIN H. JONES,)
)
)
 Plaintiff,)
)
 v.)
)
)
 WARDEN TRACY S. RAY,)
 et. al.,)
)
 Defendants.)

Civil Action No. 7:06-cv-00009

MEMORANDUM OPINION

By: Hon. James C. Turk
Senior United States District Judge

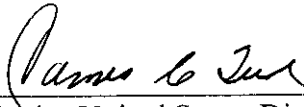
Plaintiff Benjamin H. Jones, a Virginia inmate acting pro se, brings this action under the Civil Rights Act, 42 U.S.C. §1983, with jurisdiction vested under 28 U.S.C. §1343. Specifically, Jones alleges that prison officials at Red Onion State Prison wrongfully prevented him from receiving a "Christmas Holiday Bag" because he is housed in segregated confinement. Jones applies to proceed in forma pauperis. Upon review of court records, the court concludes that Jones' complaint must be dismissed without prejudice, pursuant to 28 U.S.C. §1915(g).

By order and opinion dated August 12, 1998, the court held that Benjamin Jones had filed at least three prior civil actions, in forma pauperis, that were dismissed as malicious, frivolous, or for failure to state a claim, and that, under 28 U.S.C. §1915(g), he is barred from filing a civil action in forma pauperis, unless he prepays the \$250.00 filing fee or alleges facts demonstrating that he is in imminent danger of physical harm. See Jones v. Hadley, Civil Action No. 98-0066-R (W.D. Va. 1998). Clearly, the allegations summarized above do not present the slightest indication that defendants' actions place Jones in imminent danger of any physical harm whatsoever.

Inasmuch as the court has not received prepayment of the filing fee for this action and as

Jones does not allege any facts in this complaint suggesting that he is in imminent danger of physical or irreparable harm, the court will summarily dismiss this action without prejudice, pursuant to § 1915(g). An appropriate order shall be issued this day.

ENTER: This 10th day of January, 2006.



Senior United States District Judge