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

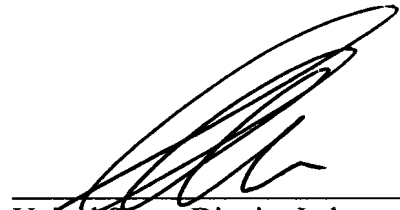
JOHNATHAN LEE X SMITH ¹ ,)	
Plaintiff,)	Civil Action No. 7:09-cv-00271
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
CARRIE MAYES, <u>et al.</u> ,)	By: Samuel G. Wilson
Defendants.)	United States District Judge

Plaintiff, a Virginia inmate proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983. However, plaintiff has had three previous civil actions dismissed as frivolous.² Therefore, plaintiff may not proceed with this action unless he either pays the \$350.00 filing fee or shows that he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

As plaintiff has neither prepaid the filing fee nor demonstrated that he is “under imminent danger of serious physical injury,”³ the court dismisses his complaint without prejudice.⁴

The Clerk is directed to send a certified copy of this Memorandum Opinion and accompanying Order to plaintiff.

ENTER: This 8th day of July, 2009.


United States District Judge

¹ Plaintiff submits his case under the name “Johnathan Lee X”; however, according to online VDOC records, the name associated with the inmate number that plaintiff provides the court is Jonathan Lee Smith. Smith has filed many cases in this court and in the Eastern District of Virginia, and in many of those cases, the court recognized him as Johnathan Lee X Smith; therefore, the court will refer to plaintiff by the same name in this action to remain consistent.

² See Smith v. Ailstock, et al., Civil Action No. 7:95cv00939 (W.D. Va. Aug. 28, 1995); Smith v. Commonwealth of Virginia, et al., Civil Action No. 7:97cv00723 (W.D. Va. Dec. 17, 1997); Smith v. Ailstock, et al., Civil Action No. 3:96cv00339 (E.D. Va. Apr. 23, 1996); Smith v. Mueller, et al., Case No. 96-7602 (4 th Cir. Jan. 29, 1997) (recognizing plaintiff as a three-striker under the PLRA).

³ Plaintiff alleges that the defendants refuse to recognize him as “Johnathan Lee X” and that they insist that his last name is actually Smith. Plaintiff claims that using the last name Smith is “highly offensive” to him “for religious reasons.” Plaintiff has provided no evidence that he has legally changed his name. Further, the court finds that he has not demonstrated that he is under imminent danger of serious physical injury.

⁴ The court has previously notified plaintiff that he may not file civil actions in this court unless he either pays the filing fee or demonstrates that he is under imminent danger of serious physical injury. Therefore, the court will not give plaintiff additional time to pay the filing fee or amend his complaint.