

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

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

AUG 20 2009  
JOHN F. CORCORAN, CLERK  
BY: *J. Turk* DEPUTY CLERK

NATHANIEL TYREE RIVERS,	)	Civil Action No. 7:09-cv-00351
Plaintiff,	)	
	)	
v.	)	<u>MEMORANDUM OPINION</u>
	)	
ROCKINGHAM-HARRISONBURG	)	
JAIL, et al.,	)	By: Hon. James C. Turk
Defendants.	)	Senior United States District Judge

Plaintiff Nathaniel Tyree Rivers, a Virginia inmate proceeding pro se, filed a civil rights complaint, pursuant to 42 U.S.C. § 1983 with jurisdiction vested in 28 U.S.C. § 1343. Plaintiff did not submit payment for the \$350 filing fee with his complaint. See 28 U.S.C. § 1914(a). Plaintiff had at least three non-habeas civil complaints or appeals previously dismissed as frivolous or for failing to state a claim upon which relief may be granted. See, e.g., Rivers v. J. Franklin Humes, Jr., et al., 7:09-cv-000168 (W.D. Va. 2009); Rivers v. Linda L. Czyzyk, 7:09-cv-000167 (W.D. Va. 2009); Rivers v. Middle Rivers Regional Jail, 7:09-cv-00039 (W.D. Va. 2009).

In accordance with the three-strikes provision of 28 U.S.C. § 1915(g), the court previously advised plaintiff that he needed to submit the \$350.00 filing fee or establish an imminent threat of serious physical harm to proceed with a civil suit. See, e.g., Rivers v. J. Franklin Humes, Jr., et al., 7:09-cv-000168 (W.D. Va. 2009). After reviewing plaintiff's submissions in this civil action, it is clear that plaintiff does not allege any facts indicating that he is currently under any imminent threat of any serious physical injury within the meaning of 28 U.S.C. § 1915(g). Based on the foregoing and the complaint, the court finds that plaintiff has failed to demonstrate any imminent danger of serious physical harm in the complaint and

plaintiff has not paid the \$350.00 filing fee despite being previously advised of having three strikes. See 28 U.S.C. § 1914(a). Accordingly, the court dismisses the complaint without prejudice for failure to pay the filing fee at the time of filing the complaint. A separate order will issue this day.

The Clerk is directed to send copies of this memorandum opinion and the accompanying order to the plaintiff.

ENTER: This 30<sup>th</sup> day of August, 2009.

  
Senior United States District Judge