

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

CLERK'S OFFICE U.S. DIST. COURT  
AT DANVILLE, VA

FILED  
for Roanoke  
OCT 27 2011

JULIA C. DUDLEY, CLERK  
BY:   
DEPUTY CLERK

RICHARD VILLAR,  
Plaintiff,

Civil Action No. 7:11-cv-00355

v.

MEMORANDUM OPINION

UNITED STATES OF AMERICA, et al.,  
Defendants.

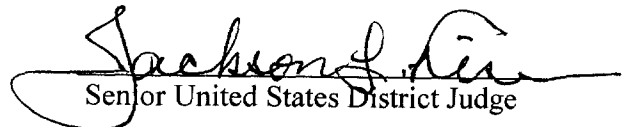
By: Hon. Jackson L. Kiser  
Senior United States District Judge

By Order entered August 5, 2011, the court assessed a \$350.00 filing fee and granted plaintiff fifteen days from the date of the Order to forward to the court a statement of his assets and a report regarding his trust account for the six months prior to July 2011, signed by each appropriate prison official where plaintiff was confined during that time so the court could determine a payment schedule. Plaintiff was advised that failure to return the required paperwork would result in dismissal of this action without prejudice.

Despite plaintiff receiving an extension of time, plaintiff filed certified inmate account reports of the six-month period prior to August 2011, not the six-month period prior to July 2011. Therefore, plaintiff did not comply with the conditional filing order, despite the warning that his action may be dismissed without prejudice for noncompliance, and the court cannot determine the appropriate filing fee assessment, pursuant to 28 U.S.C. § 1915(b). Accordingly, this action must be dismissed without prejudice for plaintiff's failure to pay the filing fee or properly document his application to proceed in forma pauperis. Plaintiff may refile his claims in a new and separate action at the time he can pay the \$350 filing fee or file the necessary documents to proceed in forma pauperis.

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

ENTER: This 27<sup>th</sup> day of October, 2011.

  
Senior United States District Judge