

FILED
for Roanoke
OCT 18 2012

JULIA C. BUDLEY, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

GREGORY D. CROSBY,
Plaintiff,

Civil Action No. 7:12-cv-00325

v.

MEMORANDUM OPINION

M. HAMILTON, et al.,
Defendants.

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

Gregory D. Crosby, an inmate proceeding pro se, filed a complaint and a statement of assets in June 2012. By Order entered August 2, 2012, the court assessed a \$350 filing fee and granted plaintiff ten days from the date of the Order to file a complete application to proceed in forma pauperis. The court gave plaintiff a form inmate account report that specifically requested data for the six-month period before June 2012. The court needed this information to determine a payment schedule, pursuant to 28 U.S.C. § 1915(b), and the court advised plaintiff that failure to return the required paperwork would result in dismissal of this action without prejudice.

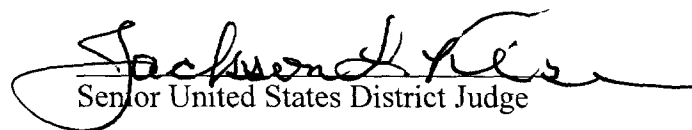
Plaintiff subsequently filed financial data for the six-month period before July 2012, not June 2012. By its Order entered August 21, 2012, the court advised plaintiff that he filed the wrong financial data and gave him fifteen days to return the correct financial data on another form that explicitly requested data for the six-month period before June 2012. Plaintiff subsequently filed the same erroneous inmate account report he filed in response to the August 2, 2012, conditional filing order.

None of plaintiff's submissions report the six-month period between December 2011 and May 2012, which is the applicable six-month period before plaintiff instituted this action in June 2012. The court cannot determine the appropriate filing fee assessment, pursuant to 28 U.S.C. § 1915(b), and plaintiff has failed to comply with the August 2 and August 21, 2012, Orders.

Accordingly, this action must be dismissed without prejudice for plaintiff's failure to comply, to pay the filing fee, or to properly document the application to proceed in forma pauperis. Plaintiff may refile the claims in a new and separate action at the time plaintiff 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 18th day of October, 2012.


Senior United States District Judge