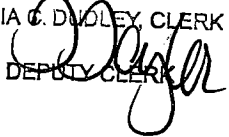


OCT 09 2015

JULIA C. DWOLEY, CLERK  
BY:   
DEPUTY CLERK

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

OWAIIAN M. JONES,  
Plaintiff,

v.

KROGER STORES, et al.,  
Defendants.

) Civil Action No. 7:15-cv-00538  
)  
)  
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)  
)  
)  
)  
)

MEMORANDUM OPINION

By: Hon. Michael F. Urbanski  
United States District Judge

Owaiian M. Jones, a Virginia inmate proceeding pro se, commenced this civil action pursuant to 42 U.S.C. § 1983. Upon a review of court records, it appears that Plaintiff had at least three non-habeas civil actions or appeals dismissed as frivolous, as malicious, or for failing to state a claim before he commenced this action. See, e.g., Jones v. United States of America, No. 7:14-cv-00410, slip op. at 2-3 (W.D. Va. Aug. 6, 2014), appeal dismissed as frivolous, No. 14-7188, slip op. at 2 (4th Cir. Dec. 16, 2014); Jones v. United States District Court for the Western District of Virginia, No. 7:14-cv-00499, slip op. at 2 (W.D. Va. Sept. 30, 2014); see also McLean v. United States, 566 F.3d 391, 399 (4th Cir. 2009) (dismissals without prejudice for frivolousness should not be exempted from 28 U.S.C. § 1915(g)). Inasmuch as the record provides no reason to exempt Plaintiff from 28 U.S.C. § 1915(g), the court dismisses this action without prejudice for Plaintiff's failure to pay the filing fee when filing the complaint. See, e.g., Dupree v. Palmer, 284 F.3d 1234, 1237 (11th Cir. 2002) (reasoning that the filing fee is due upon filing a civil action when in forma pauperis provisions do not apply to plaintiff and that the court is not required to permit plaintiff an opportunity to pay the filing fee after recognizing plaintiff is ineligible to proceed in forma pauperis).

ENTER: This 9<sup>th</sup> day of October, 2015.



United States District Judge