Brown v. Lesueur Doc. 3

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

CLERKS OFFICE U.S. DIST. COURT
AT DANVILLE, VA
FILED
APR 3 2019
JULIA C. DUDLEY, CLERK

JULIA C. DUDLEY, CLERK BY: s/ MARTHA L. HUPP DEPUTY CLERK

MILTON ANTOINE BROWN,	DEPUTY CLERK
also known as Sultan Immanuel El-Bey, Plaintiff,	) CASE NO. 7:19CV00111
<b>v.</b>	MEMORANDUM OPINION
S. C. LESUEUR,  Defendant.	<ul><li>) By: Hon. Jackson L. Kiser</li><li>) Senior United States District Judge</li></ul>

Plaintiff, a Virginia inmate, submitted this action without the filing fee, which I will construe as a request for leave to proceed in forma pauperis. The pertinent statute provides:

In no event shall a prisoner bring a civil action [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Plaintiff has at least three other actions or appeals that have been dismissed as frivolous or for failure to state a claim. See, e.g., Brown v. Goff, No. 3:18CV223, ECF Nos. 7, 8 (E.D. Va. June 13, 2018); Brown v. United States Department of Justice, No. 3:18CV347, ECF Nos. 3, 4 (E.D. Va. June 12, 2018); Brown v. United States Department of Justice, No. 3:18CV341, ECF Nos. 3, 4 (E.D. Va. June 12, 2018); Brown v. United States Department of Justice, No. 3:18CV349, ECF Nos. 3, 4 (E.D. Va. June 12, 2018); Brown v. United States Department of Justice, No. 3:18CV339, ECF Nos. 3, 4 (E.D. Va. June 12, 2018); Brown v. Smith, No. 3:18CV225, ECF Nos. 8, 9 (E.D. Va. June 12, 2018).

Plaintiff's current complaint does not suggest that he is in imminent danger of serious physical harm. Accordingly, Plaintiff's request to proceed <u>in forma pauperis</u> will be denied. The action will be dismissed without prejudice. If Plaintiff wishes to proceed with this action, he

may submit a new complaint with the full \$400 filing fee. The Court will process such a complaint as a new civil action. An appropriate order will enter this day.

The clerk will send Plaintiff a copy of this memorandum opinion and the accompanying order.

**ENTER**: This \_\_\_\_\_ day of April, 2019.

s/Jackson L. Kiser
Senior United States District Judge