

CLERKS OFFICE U.S. DIST. COURT
AT DANVILLE, VA
FILED

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

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| MILTON ANTOINE BROWN, |) | |
| also known as Sultan Immanuel El-Bey, |) | CASE NO. 7:19CV00116 |
| Plaintiff, |) | |
| v. |) | <u>MEMORANDUM OPINION</u> |
| |) | |
| SGT. PEAKS, |) | By: Hon. Jackson L. Kiser |
| Defendant. |) | Senior United States District Judge |
| |) | |

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. 3:18CV339, 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 in forma pauperis 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 3rd day of April, 2019.

s/Jackson L. Kiser
Senior United States District Judge