

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

JUN 21 2016

JULIA C. DUDLEY, CLERK
BY: *HM*
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MALCOLM MUHAMMAD,
Plaintiff,

v.

Y. TAYLOR, et al.,
Defendants.

Civil Action No. 7:16-cv-00283

MEMORANDUM OPINION

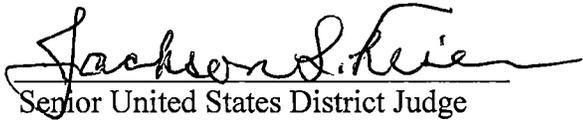
By: Hon. Jackson L. Kiser
Senior United States District Judge

Malcolm Muhammad, a Virginia inmate proceeding pro se, filed a complaint pursuant to 42 U.S.C. § 1983 and submitted only a partial payment of fees for a civil action. Consequently, I construe the partial payment as seeking leave to proceed without prepayment of the fee. Upon review of court records, it appears Plaintiff has had at least three non-habeas civil actions or appeals previously dismissed as frivolous, as malicious, or for failing to state a claim before filing this action. See Muhammad v. Lieutenant Fleming, No. 15-6991, slip op. at 3 (4th Cir. Dec. 7, 2015) (affirming dismissal of complaint pursuant to 28 U.S.C. § 1915(g)); Muhammad v. C/O Smith, No. 7:13-cv-00578, slip op. at 1 (W.D. Va. Mar. 14, 2014) (dismissed with prejudice for failing to state a claim), aff'd, No. 14-7052, slip op. at 2 (4th Cir. Nov. 18, 2014); Muhammad v. Ulep, No. 1:14-cv-00055, slip op. at 1 (E.D. Va. Apr. 10, 2014) (dismissed with prejudice for failing to state a claim), aff'd, No. 14-6612, slip op. at 2 (4th Cir. Aug. 22, 2014); Muhammad v. Clarke, No. 7:14-cv-00424, slip op. at 1 (W.D. Va. Oct. 20, 2014) (dismissed as frivolous); 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)).

After reviewing Plaintiff's submissions in this civil action, it is clear that Plaintiff does not allege any facts indicating that he is currently under any imminent threat of any serious physical injury within the meaning of 28 U.S.C. § 1915(g). Accordingly, I dismiss the action without

prejudice for Plaintiff's failure to pay the filing fee at the time of filing the complaint. See, e.g.,
Dupree v. Palmer, 284 F.3d 1234, 1237 (11th Cir. 2002).

ENTER: This 21st day of June, 2016.


Senior United States District Judge