

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6291

JOHNATHAN LEE SMITH, a/k/a Johnathan Lee X Smith,

Plaintiff - Appellant,

v.

LAWRENCE WANG, M.D.; VCU HEALTH SYSTEM; MCV HOSPITALS AND
PHYSICIANS; MICHAEL C. KURZ, M.D.; DEBORAH KLEIMAN; DHIREN
E. KUMAR, M.D.; JENNY O. SMITH, M.D.; VELMIR A. LUKETIC,
M.D.; SUBHASH A. NANIWADEKAR, M.D.,

Defendants - Appellees.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Samuel G. Wilson, District
Judge. (7:09-cv-00462-sgw-mfu)

Submitted: October 13, 2011

Decided: November 4, 2011

Before MOTZ, KING, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Johnathan Lee Smith, Appellant Pro Se. Joseph Michael
Rainsbury, Nancy Fuller Reynolds, LECLAIR RYAN, PC, Roanoke,
Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Johnathan Lee Smith appeals the district court's order accepting the recommendation of the magistrate judge, finding he was not in imminent danger of serious physical injury, denying his application to proceed under the PLRA without prepayment of the filing fees and dismissing his civil rights complaint. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. Smith v. Wang, No. 7:09-cv-00462-sgw-mfu (W.D. Va., Jan. 31, 2011). Because the Defendants challenged Smith's assertion that he was under imminent danger of serious physical injury, for the purpose of seeking leave to proceed under the PLRA without prepayment of fees, there was no error in the magistrate judge's decision to have an evidentiary hearing on the issue. See Taylor v. Watkins, 623 F.3d 483, 485 (7th Cir. 2010). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED