

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 95-7882**

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ROY LEE PERRY, II-Bey,

Plaintiff - Appellant,

and

ELLIOTT GAINES,

Plaintiff,

versus

JOHN JABE, Warden; P. A. TERRANGI; D. A. SWETTER,

Defendants - Appellees.

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**No. 96-6446**

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ELLIOTT GAINES,

Plaintiff - Appellant,

and

ROY LEE PERRY,

Plaintiff,

versus

JOHN JABE, Warden; P. A. TERRANGI; D. A. SWETTER,

Defendants - Appellees.



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Appeals from the United States District Court for the Eastern District of Virginia, at Alexandria. Albert V. Bryan, Jr., Senior District Judge. (CA-95-851-AM)

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Submitted: June 20, 1996

Decided: June 27, 1996

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Before HALL, WILKINS, and HAMILTON, Circuit Judges.

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No. 95-7882 dismissed and No. 96-6446 affirmed by unpublished per curiam opinion.

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Roy Lee Perry, Elliott Gaines, Appellants Pro Se. Lance Bradford Leggitt, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia; David Ernest Boelzner, WRIGHT, ROBINSON, OSTHIMER & TATUM, Richmond, Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellants appeal the district court's orders dismissing their 42 U.S.C. § 1983 (1988) complaint. The district court assessed a filing fee in accordance with Evans v. Croom, 650 F.2d 521 (4th Cir. 1981), cert. denied, 454 U.S. 1153 (1982), and dismissed the action as to Roy Lee Perry without prejudice when he failed to comply with the fee order. Finding no abuse of discretion, we deny Perry leave to proceed in forma pauperis and dismiss appeal No. 95-7882. We deny Perry's motion to appoint counsel.

The district court dismissed the action as to Elliott Gaines on the merits. Gaines moved for reconsideration, and the district court denied the motions. Gaines filed a notice of appeal which was only timely to the order denying reconsideration. Because we find upon a review of the record that the district court did not abuse its discretion in denying reconsideration, we affirm appeal No. 96-6446 on the reasoning of the district court. Gaines v. Jabe, No. CA-95-851-AM (E.D. Va. Jan. 25 & Feb. 8, 1996). 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.

No. 95-7882 - DISMISSED

No. 96-6446 - AFFIRMED