

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 18-1962

BEATRICE DOWNS,

Plaintiff - Appellant,

v.

TERRY MCAULIFFE, Governor of Virginia,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at
Richmond. Robert E. Payne, Senior District Judge. (3:17-cv-00760-REP)

Submitted: February 19, 2019

Decided: February 26, 2019

Before MOTZ and DUNCAN, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Beatrice Downs, Appellant Pro Se. Alexander Kenneth Page, OFFICE OF THE
ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Beatrice Downs appeals the district court's order dismissing her civil complaint for failure to state a claim upon which relief could be granted. We have reviewed the record and find no reversible error. Accordingly, although we grant leave to proceed in forma pauperis, we affirm for the reasons stated by the district court. *Downs v. McAuliffe*, No. 3:17-cv-00760-REP (E.D. Va. July 27, 2018). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: April 9, 2019

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No. 18-1962
(3:17-cv-00760-REP)

BEATRICE DOWNS

Plaintiff - Appellant

v.

TERRY MCAULIFFE, Governor of Virginia

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ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

BEATRICE DOWNS,

Plaintiff,

v.

Civil Action No. 3:17cv760

GOVERNOR TERRY MCAULIFFE,

Defendant.

MEMORANDUM ORDER

Having considered the COMPLAINT FOR A CIVIL CASE (ECF No. 1), the MOTION TO DISMISS (ECF No. 6), and the supporting, opposing and reply memoranda, the Court finds that the relief sought in the Complaint, which is a pardon, and the grant of pardons lies solely in the discretion of the Executive Branch and cannot be granted by this Court; and therefore the proffered Complaint fails to state a claim for the only relief that is sought.

Additionally, although the Complaint mentions that Ms. Downs somehow was denied the right to "publicize her grievances, concerns and dissatisfaction with state and county agents," the Complaint is a litany of complaints about grievances as to which the named defendant is not alleged to have had any involvement whatsoever and that is confirmed by Ms. Downs' responses to the MOTION TO DISMISS

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(ECF Nos. 8 and 13) which elaborates on the grievances of which she complains, none of which have any connection to the named defendant.

For the foregoing reasons, the Complaint, even as interpreted by Ms. Downs in her response papers, clearly states no plausible claim for relief, and the MOTION TO DISMISS (ECF No. 6) is granted.

It is further ORDERED that the facts and legal contentions are adequately presented in the materials before the Court and oral argument would not aid the decisional process.

Any appeal from this decision must be taken by filing a written notice of appeal with the Clerk of the Court within thirty (30) days of the date of entry hereof. Failure to file a timely notice of appeal may result in the loss of the right to appeal.

It is so ORDERED.

_____/s/ *REP*
Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: July 26, 2018

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from this filing is
available in the
Clerk's Office.**