

FILED: April 19, 2019

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 19-6453  
(5:03-ct-00688-BO)

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DAVID LEE SMITH

Plaintiff - Appellant

v.

STATE OF NORTH CAROLINA; MIKE EASLEY, GOVERNOR

Defendants - Appellees

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O R D E R

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David Lee Smith has filed an application for leave to proceed on appeal without prepayment of fees. By order dated May 22, 2003, in appeal No. 03-6044, this court determined that Smith had filed three previous civil actions in federal court which were dismissed as frivolous, malicious, or for failing to state a claim upon which relief can be granted. Because Smith had reached the statutory limit for filing or appealing civil actions under the Prison Litigation Reform Act, the court denied

APPENDIX - C

Smith leave to proceed without prepayment of fees. See 28 U.S.C. § 1915(g).

Smith has not made a colorable showing that he is in imminent danger of serious physical injury. The court denies the application for leave to proceed without prepayment of fees.

The clerk shall notify Smith that this appeal will be dismissed if the \$505 filing and docketing fees are not paid in full to the Clerk of the District Court within 15 days from the date of this order.

For the Court--By Direction

/s/ Patricia S. Connor, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. 5:03-CT-688-BO

DAVID LEE SMITH,

)

Plaintiff,

)

v.

)

ORDER

STATE OF NORTH CAROLINA and  
MIKE EASLEY,

)

Defendants.

)

Plaintiff, a state inmate, filed this civil rights action *pro se* pursuant to 42 U.S.C. § 1983, which the court dismissed as frivolous on September 23, 2003. On June 7, 2018, the court denied plaintiff's motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b). Plaintiff appealed, and on August 1, 2018, the Fourth Circuit Court of Appeals dismissed plaintiff's appeal for failure to prosecute. (See (DE 19)). The matter now is before the court on plaintiff's pleading captioned "Motion for Preliminary and Permanent Injunction Pursuant to 28 U.S.C. § 3626" and post-judgment motion to amend (DE 21). The court has considered the motions under the governing standards, and DENIES plaintiff's motions (DE 21). Where the case file is long closed, the clerk of court is DIRECTED to dispense with the taking into the record of this case any new materials, except a notice of appeal.

SO ORDERED, this the 20 day of March, 2019.

  
TERRENCE W. BOYLE  
Chief United States District Judge

FILED: July 24, 2019

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 19-6453  
(5:03-CT-00688-BO)**

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DAVID LEE SMITH,

Plaintiff - Appellant,

v.

STATE OF NORTH CAROLINA; MIKE EASLEY, GOVERNOR,

Defendants - Appellees.

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**O R D E R**

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Upon consideration of Smith's motion to reconsider the order denying leave to proceed under the Prison Litigation Reform Act, the court denies the motion for reconsideration. The court warns Smith that filing further frivolous appeals, motions, or petitions, including challenges to this court's May 22, 2003, order could result in the court ordering Smith to show cause why he should not be sanctioned.

Entered at the direction of the panel: Judge Motz, Judge Keenan, and Judge Floyd.

For the Court

/s/ Patricia S. Connor, Clerk

FILED: August 21, 2019

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 19-6453  
(5:03-ct-00688-BO)

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DAVID LEE SMITH

Plaintiff - Appellant

v.

STATE OF NORTH CAROLINA; MIKE EASLEY, GOVERNOR

Defendants - Appellees

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O R D E R

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The court dismisses this proceeding for failure to prosecute pursuant to Local Rule 45.

For the Court--By Direction

/s/ Patricia S. Connor, Clerk