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General Docket
Third Circuit Court of Appeals

Court of Appeals Docket #: 03-1389
Nature of Suit: 3550 Prisoner-Civil Rights
Nealon v. Comm of PA, et al
Appeal From: U.S. District Court for the District of Middle Pennsylvania
Fee Status: PLRA

Docketed: 02/12/2003
Termed: 08/19/2003

Case Type Information:

- 1) civil
- 2) private
- 3) Civil Rights-prisoner

Originating Court Information:

District: 0314-3 : [02-cv-01681](#)
District Judge: Richard P. Conaboy, U.S. District Judge
Date Filed: 09/23/2002
Date Order/Judgment:
02/04/2003

Date NOA Filed:
02/07/2003

07/31/2003 ORDER (Nygaard, Authoring Judge, Fuentes and Greenberg, Circuit Judges) denying motion by Appellant to proceed in forma pauperis pursuant to 28 U.S.C. Section 1915(g). Appellant, a Pennsylvania inmate, has had at least three prior civil actions dismissed as frivolous: (1) Nealon v. Kush, M.D. Pa. Civ. No. 91-cv-00228 (dismissed as frivolous, 3/26/91; (2) Nealon v. Lehman, M.D. Pa. Civ. No. 92-cv-00661 (dismissed as frivolous, 6/23/92; (3) Nealon v. Lehman, C.A. No. 92-7532 (appeal from M.D. Pa. Civ. No. 92-cv-00661--dismissed as frivolous, 6/14/93). See Adepegba v. Hammons, 103 F.3d 838, 388 (5th Cir. 1996) (where district court case and appeal were both dismissed as frivolous, both count as "strikes"). Appellant has failed to show that he was "under imminent danger of serious physical injury" at the time he filed this appeal. See 28 U.S.C. Section 1915(g); Abdul-Akbar v. McKelvie, 239 F.3d 307, 313 (3d 2001) (en banc). Accordingly, appellant, shall pay to the District Court the entire appellate filing and docketing of \$105.00 within 14 days of the date of this order. Failure to pay the fees will result in the dismissal of this appeal. See 3d Cir. LAR 107.1(a). Should appellant pay the appellate filing fees, the appeal will be submitted to a panel of the Court for possible summary action, pursuant to LAR 27.4 and I.O.P. 10.6. Appellant's motion to proceed on the original record would be submitted to the same panel, filed. CPS-262. (CH)

07/31/2003 Certified copy of order to Lower Court. (CH)

08/19/2003 CLERK ORDER (LAR 3.3 and LAR Misc 107.1(a)): Procedurally Terminated Without Judicial Action; Default. (PAR)

08/19/2003 Certified copy of order to Lower Court. (PAR)

09/17/2003 NONCOMPLIANCE LETTER requesting compliance for copies of orders to be attached to petition for review construed as a petition for rehearing to be submitted by Edward J. Nealon. Response due in 14 days. (PAR)

09/29/2003 COMPLIANCE RECEIVED from Pro Se Appellant of motion to attach exhibits to the petition for rehearing and copies of order for the petition for rehearing. Certificate of Service 9/25/03. (PAR)

09/29/2003 MOTION by Appellant to file exhibits to petition for rehearing, filed. Answer due 10/10/03. Certificate of Service dated 9/25/03. (PAR)

10/20/2003 ORDER (Nygaard, Authoring Judge, Circuit Judge) denying motion to file exhibits to rehearing by Pro Se Appellant Edward J. Nealon, Jr., filed. (PAR)

10/20/2003 PETITION by Pro Se Appellant for rehearing before original panel, filed. Certificate of service dated 8/28/03. (PAR)

11/13/2003 ORDER (Nygaard, Authoring Judge, Fuentes and Greenberg, Circuit Judges) denying petition for rehearing before original panel by Appellant Edward J. Nealon Jr., filed. (PAR)

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