

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

WESLEY C. SMITH,)
)
 Plaintiff,)
)
 v.) Case No. 1:07-CV-1002
)
 GAYLORD L. FINCH, JR., et. al.,)
)
 Defendants.)

MOTION TO DISMISS

Defendants, Gaylord L. Finch, Jr. (“Judge Finch”), Office of Public Defender (“OPD”) and Dawn Butorac (“Butorac”), by counsel and pursuant to Fed. R. Civ. P. 12(b)(1) and 12 (b)(6), move this Court to dismiss this complaint. The grounds for granting this motion are set forth in detail in the Memorandum in Support filed herewith.

Because defendants seeks dismissal of this action, *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) requires the following notice to the *pro se* plaintiff. Accordingly and pursuant to Rule 7(J) of the Rules of the United States District Court for the Eastern District of Virginia, plaintiff, *pro se*, is hereby warned of the following:

- 1) You are entitled to file a response opposing this motion, and any such response must be filed within twenty (20) days of this date (the date on which the motion was filed);
- 2) The Court could dismiss your action on the basis of the defendants’ motion and memorandum of law in support if you do not file a response;

3) You must identify all facts stated by the defendant with which you disagree and must set forth your version of the facts by offering affidavits (written statements signed before a notary public and under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury); and

4) You are also entitled to file a legal brief in opposition to the brief in support filed by the defendants.

GAYLORD L. FINCH, JR.
OFFICE OF PUBLIC DEFENDER
DAWN BUTORAC

By: _____/s/_____
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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of December, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and I hereby certify that I mailed the document by U.S. mail to the following non-filing user:

Wesley C. Smith, Plaintiff, *pro se*
1525 S. George Mason Drive #10
Arlington, Virginia 22204-3479

By: _____/s/_____
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