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

SHANE SCOTT CULLEN,

Petitioner,

v.

Civil Action No. **3:09CV325**

UNKNOWN,

Respondent.

MEMORANDUM OPINION

Petitioner, a Virginia prisoner, has submitted a motion asking for an extension of time in which to file a motion under 28 U.S.C. § 2254.[1] Federal courts, however, lack jurisdiction to consider the timeliness of habeas petitions "until a petition is actually filed." *United States v. Leon*, 203 F.3d 162, 164 (2d Cir. 2000) (holding that no case or controversy existed before § 2255 motion was actually filed); *see also United States v. White*, 257 F. App'x 608, 609 (4th Cir. 2007) (Nos. 07-6513 & 07-7095), *available at* 2007 WL 4302418, at *1; *Gregory v. Bassett*, No. 3:07cv790, 2009 WL 455267, at *2 (E.D. Va. Feb. 23, 2009). Because a § 2254 petition did not accompany Petitioner's motion for an extension of time and because the motion did not contain any cognizable claims for habeas relief, Petitioner's motion for an extension of time (Docket No. 1) will be DENIED. *See Ramirez v. United States*, 461 F. Supp. 2d 439, 440–41 (E.D. Va. 2006) (citing cases). The matter will be DISMISSED for lack of jurisdiction.

The Clerk will be DIRECTED to forward to Petitioner the form for filing a petition under 28 U.S.C. § 2254. Any such petition for a writ of habeas corpus must conform to the form

[1] The matter has been filed as a habeas action purely for the administrative convenience of the Court.

prescribed by the rules governing such motions and be sworn to under penalty of perjury. *See* Rule 2(c), Rules Governing § 2254 Cases in U.S. District Courts. Petitioner is advised that § 2254 petitions are subject to a one-year statute of limitations and a restriction against second or successive petitions. *See* 28 U.S.C. §§ 2254(b), (d).

An appropriate Order shall accompany this Memorandum Opinion.

/s/
James R. Spencer
Chief United States District Judge

Date: 6-2-09
Richmond, Virginia