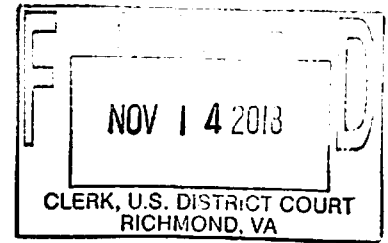


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**



HERBERT ALEXANDER,

Petitioner,

v.

Civil Action No. **3:18CV640**

D.J. HANSEN,

Respondent.

MEMORANDUM OPINION

Petitioner, a Virginia inmate proceeding pro se, submitted a PETITION FOR A WRIT OF INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE to this Court. (ECF No. 1.) The petition is clearly a standardized form from the Court of Appeals of Virginia, and Petitioner fails to identify a procedural vehicle that would permit him to pursue this action in this Court. Nevertheless, given the content of petition, the Court determined that it was appropriate to give Petitioner the opportunity to pursue this action as a petition for a writ of habeas corpus under 28 U.S.C. § 2254. *See Rivenbark v. Virginia*, 305 F. App'x 144, 145 (4th Cir. 2008). Accordingly, by Memorandum Order entered on October 2, 2018, the Court directed Petitioner to complete and return the forms for filing a 28 U.S.C. § 2254 petition within twenty (20) days of the date of entry thereof. The Court also indicated that, in the alternative, Petitioner could move to withdraw the action. The Court warned that if Petitioner failed to take any action within that time, the Court would dismiss the action without prejudice.

More than twenty (20) days have expired since the entry of the October 2, 2018 Memorandum Order and Petitioner has failed to respond. Accordingly, the action will be **DISMISSED WITHOUT PREJUDICE**. To the extent necessary, a certificate of appealability will be **DENIED**.

An appropriate Order shall accompany this Memorandum Opinion.

Date: 14 Nov. 2018
Richmond, Virginia

Is/ BJ

John A. Gibney, Jr.
United States District Judge