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

JAMES HENRY SIMPSON,

Petitioner,

v. Civil Action No. **3:19CV724**

HAROLD CLARKE,

Respondent.

MEMORANDUM OPINION

Petitioner, a Virginia prisoner proceeding *pro se*, submitted a "Motion to Waive Exhaustion Requirement." (ECF No. 1.) Given the content of this document, the Court found 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).

By Memorandum Order entered on October 21, 2019, the Court directed Petitioner, within twenty (20) days of the date of entry thereof, to complete and return the standardized form for filing a § 2254 petition if he wished to file a petition for a writ of habeas corpus. The Court warned Petitioner that the failure to comply with the terms of the October 21, 2019 Memorandum Order would result in the dismissal of the action. *See* Fed. R. Civ. P. 41(b).

More than twenty (20) days have elapsed and Petitioner has not completed and returned the § 2254 form.[1] Accordingly, the action will be DISMISSED WITHOUT PREDJUDICE. A certificate of appealability will be DENIED.

An appropriate Order shall accompany this Memorandum Opinion

Date: 25 Nov. 2019
Richmond, Virginia

/s/
John A. Gibney, Jr.
United States District Judge

[1] The Court received a second copy of the "Motion to Waive Exhaustion Requirement;" however, this submission was dated October 11, 2019. (ECF No. 3.)