

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

**FRED T. HEARN,**

Plaintiff,

v.

Civil Action No. **3:20CV618**

**L.J. LEABOUGH, et al.,**

Defendants.

**MEMORANDUM OPINION**

Plaintiff, a federal inmate proceeding *pro se* and *in forma pauperis*, filed this 42 U.S.C. § 1983 action. In order to state a viable claim under 42 U.S.C. § 1983, a plaintiff must allege that a person acting under color of state law deprived him or her of a constitutional right or of a right conferred by a law of the United States. *See Dowe v. Total Action Against Poverty in Roanoke Valley*, 145 F.3d 653, 658 (4th Cir. 1998) (citing 42 U.S.C. § 1983). In his first Complaint, Plaintiff did not identify the particular constitutional right that was violated by the defendants' conduct. Plaintiff's allegations also failed to provide each defendant with fair notice of the facts and legal basis upon which his or her liability rests. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). Accordingly, by Memorandum Order entered on March 4, 2021, the Court directed Plaintiff to file a particularized complaint and provided Plaintiff with specific instructions for how to file a particularized complaint.

On March 24, 2021, the Court received Plaintiff's Particularized Complaint. (ECF No. 13.) However, the Particularized Complaint was again deficient. Plaintiff's Particularized Complaint

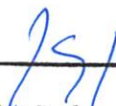
failed to properly identify each defendant and also failed to provide each defendant with fair notice of the facts and legal basis upon which his or her liability rests.

Accordingly, by Memorandum Order entered on April 27, 2021, the Court directed Plaintiff to submit a second particularized complaint within fourteen (14) days of the date of entry thereof. The Court warned Plaintiff that the failure to submit the second particularized complaint would result in the dismissal of the action.

More than fourteen (14) days have elapsed since the entry of the April 27, 2021 Memorandum Order. Plaintiff failed to submit a second particularized complaint or otherwise respond to the April 27, 2021 Memorandum Order. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order will accompany this Memorandum Opinion.

Date: 8 June 2021  
Richmond, Virginia

  
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John A. Gibney, Jr.  
United States District Judge