

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

ANTHONY SHAMEL HOPKINS,

Petitioner,

v.

Civil Action No. 3:22cv548

TONY DARDEN, WARDEN,

Respondent.

MEMORANDUM OPINION

Petitioner, a Virginia inmate proceeding *pro se*, submitted a Notice of Appeal to this Court. Petitioner sought to appeal the Supreme Court of Virginia's denial of his habeas corpus petition. Petitioner cannot appeal the decision of the Supreme Court of Virginia to this Court. Nevertheless, given the content of the Notice of Appeal, the Court found it 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 August 22, 2022, the Court directed Petitioner to complete and return a § 2254 form to the Court within thirty (30) days of the date of entry hereof or in the alternative, file a motion to withdraw the action. The Court warned Petitioner that the failure to comply with the above directive would result in the dismissal of the action without prejudice. *See Fed. R. Civ. P. 41(b)*.

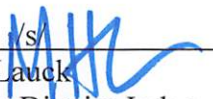
More than thirty (30) days have elapsed since the entry of the August 22, 2022 Memorandum Order and Petitioner has not filed the required § 2254 petition form.¹

¹ Instead, Petitioner filed a second Notice of Appeal. (ECF No. 3.) The Court already explained that Petitioner may not appeal the decision of the Supreme Court of Virginia to this federal court. If Petitioner wishes to pursue an action in this Court, he is required to complete and return a § 2254 petition form.

Accordingly, the action will be DISMISSED WITHOUT PREJUDICE. A certificate of appealability will be DENIED.

An appropriate Order shall accompany this Memorandum Opinion.

Date: 10/17/2022
Richmond, Virginia



M. Hannah Lauck
United States District Judge