

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

OCT 16 2018

JULIA C. DUDLEY, CLERK  
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**FRANK ERVIN ALTIZER, JR.,**  
Petitioner,

Civil Action No. 7:18-cv-00372

**MEMORANDUM OPINION**

v.

**HAROLD CLARKE,**  
Respondent.

By: **Hon. Michael F. Urbanski**  
Chief United States District Judge

Frank Ervin Altizer, Jr., a Virginia inmate proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By the Order entered on September 25, 2018, the court informed Petitioner that he must pay the \$5.00 filing fee or apply to proceed in forma pauperis. The Order advised Petitioner that not complying within ten days would result in the petition's dismissal.

Petitioner has not communicated with the court or complied with the Order since it was entered on September 25, 2018. Accordingly, the petition is dismissed without prejudice for the failure to comply and to prosecute. Based upon the finding that Petitioner has not made the requisite substantial showing of a denial of a constitutional right as required by 28 U.S.C. § 2253(c) and Slack v. McDaniel, 529 U.S. 473, 484 (2000), a certificate of appealability is denied.

ENTER: This 15<sup>th</sup> day of October, 2018.

  
Chief United States District Judge