

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

RAYMOND D. MASSENBURG,

Plaintiff,

v.

Civil Action No. 3:08cv106

VANESSA P. ADAMS, *et al.*,

Defendants.

MEMORANDUM OPINION


Raymond D. Massenburg, a former federal prisoner, filed this civil action against Bureau of Prisons employees while he was incarcerated at the Federal Correctional Complex in Petersburg, Virginia. By Memorandum Order entered on December 16, 2010, the Court ordered Massenburg to file, within eleven (11) days from the date of entry thereof, a statement indicating his interest in continuing to prosecute this case. The Court warned Massenburg that failure to do so would result in dismissal of his case.

By Memorandum Opinion and Order entered on December 30, 2010, the Court dismissed Massenburg's action because he had not responded to the December 16, 2010 Memorandum Order within the required time. Thereafter, on January 13, 2011, the Court received from Massenburg a letter indicating his desire to continue pursuing the case.¹ Because this letter arrived within twenty-eight days of the dismissal of the action, the Court will treat it as a Motion to Alter or Amend pursuant to Federal Rule of Civil Procedure 59(e).

¹ Massenburg's letter was accompanied by a certificate of service which indicates that he mailed the letter on December 27, 2010. This date is within eleven (11) days of the date of entry of the December 16, 2010 Memorandum Order.

Rule 59(e) “permits a district court to correct its own errors, ‘sparing the parties and the appellate courts the burden of unnecessary appellate proceedings.’” *Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998) (quoting *Russell v. Delco Remy Div. of Gen. Motors Corp.*, 51 F.3d 746, 749 (7th Cir. 1995)). Accordingly, in order to “prevent manifest injustice,” *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993), the Court will VACATE its Memorandum Opinion and Order dated December 30, 2010 (Docket Nos. 86, 87). The action will be REINSTATED.

An appropriate Order will accompany this Memorandum Opinion.

/s/ 
M. Hannah Lauck
United States Magistrate Judge

Date: 1-25-11
Richmond, Virginia