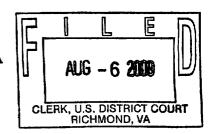
## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Richmond Division



LEROY JOSEPH KELLY,

Petitioner,

v.

CIVIL ACTION NO. 3:09CV243

WARDEN, FCC COLEMAN - USP II, et al.,

Respondents.

## MEMORANDUM OPINION

Petitioner, proceeding <u>pro se</u>, submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By Memorandum Order on May 6, 2009, the Court directed Petitioner to complete and return, within fifteen days of the date of entry thereof, an affidavit in support of his request to proceed <u>in forma pauperis</u>. More than fifteen (15) days have passed and Petitioner has not returned the required <u>in forma pauperis</u> affidavit.

Petitioner has failed to pay the assessed fee or adequately explain any special circumstances warranting excuse from payment.

Accordingly, the petition will be DISMISSED WITHOUT PREJUDICE.

The Clerk is DIRECTED to send a copy of the Memorandum Opinion to Petitioner.

An appropriate Order shall issue.

Robert E. Payne

Senior United States District Judge

RSP

Dated: Cyun 5, 2009

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