

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

MICHAEL HENRY HEARN,

Plaintiff,

v.

Civil Action No. **3:11cv674**

UNKNOWN,

Defendant.

MEMORANDUM OPINION

Michael Henry Hearn, a Mississippi prisoner proceeding *pro se*, submitted this civil action. On November 16, 2011, by Memorandum Order, the Court conditionally docketed Hearn's action. The Court ordered Hearn to submit, within eleven (11) days of the entry thereof, a concise statement no more than two (2) pages in length explaining the basis for the Court's jurisdiction in the matter and to pay the \$350.00 filing fee. Hearn failed to comply with the November 16, 2011 Memorandum Order. Accordingly, on January 17, 2012, by Memorandum Opinion and Order, the Court dismissed the action without prejudice. Hearn now submits a thirty-seven (37) page motion entitled "Motion For Aggreveied By Complianant." (Docket No. 5.) Because this motion was submitted within twenty-eight days of the entry of the January 17, 2012 Order, the Court construes it as a motion to alter or amend the judgment pursuant to Federal Rule of Civil Procedure 59(e). Fed. R. Civ. P. 59(e).

The Fourth Circuit has recognized three grounds for relief under Rule 59(e): "(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993) (citing *Weyerhaeuser Corp. v. Koppers Co.*, 771

F. Supp. 1406, 1419 (D. Md. 1991); *Atkins v. Marathon LeTourneau Co.*, 130 F.R.D. 625, 626 (S.D. Miss. 1990)). To the extent Hearn seeks relief under Rule 59(e), he fails to state a viable basis for such relief. Furthermore, absent entirely from Hearn's motion is any concise statement of this Court's jurisdiction over his claim. Accordingly, Hearn's motion (Docket No. 5) will be DENIED.

An appropriate Order shall issue.

Date: 3/9/12
Richmond, Virginia

/s/ JAG
John A. Gibney, Jr.
United States District Judge