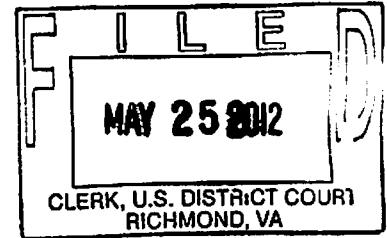


**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**



**MARCUS L. DIXON,**

Petitioner,

v.

Civil Action No. 3:12CV163

**COMMONWEALTH OF VIRGINIA,**

Respondent.

**MEMORANDUM OPINION**

Petitioner, a Virginia inmate proceeding *pro se*, has submitted a motion to this Court requesting that the Court appoint counsel to assist him in preparing and filing a 28 U.S.C. § 2254 petition. By Memorandum Order entered on April 11, 2012, the Court denied Petitioner's request for the appointment of counsel. The Court informed Petitioner if he wished to proceed pursuant to 28 U.S.C. § 2254, he must file a petition for a writ of habeas corpus on the proper forms within twenty (20) days of the date of entry thereof. The Court warned Petitioner that if he failed to return the completed form within twenty (20) days of the date of entry thereof, the Court will dismiss the action without prejudice. *See* Fed. R. Civ. P. 41(b).

More than twenty (20) days have passed and Petitioner has not returned the completed 28 U.S.C. § 2254 forms. Petitioner states that he is exhausting his state court remedies. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE. Upon the completion of the court proceedings, Petitioner may file a 28 U.S.C. § 2254 petition with this Court. Such petition will be assigned a new civil action number.

An appropriate Order shall accompany this Memorandum Opinion.

Date: 5-23-12  
Richmond, Virginia

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/s/  
James R. Spencer  
United States District Judge