

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

MICHAEL A. TILLMAN,

Plaintiff,

v.

Civil Action No. **3:13CV748**

CHARLES H. ALLEN,

Defendant.

MEMORANDUM OPINION

Michael A. Tillman, a Virginia prisoner proceeding *pro se*, filed this civil action. By Memorandum Order entered February 20, 2015, the Court directed Tillman to submit a particularized complaint within fourteen (14) days of the date of entry thereof. The Court warned Tillman that the failure to submit the particularized complaint would result in the dismissal of the action. Plaintiff failed to submit a particularized complaint or otherwise respond to the February 20, 2015 Memorandum Order. Accordingly, by Memorandum Opinion and Order entered on March 24, 2015, the Court dismissed the action without prejudice.

On April 3, 2015, the Court received from Tillman a letter that the Court construes as a motion filed pursuant to Fed. R. Civ. P. Rule 59(e) (“Rule 59(e) Motion,” ECF No. 27), *see MLC Auto., LLC v. Town of Southern Pines*, 532 F.3d 269, 277–78 (4th Cir. 2008) (citing *Dove v. CODESCO*, 569 F.2d 807, 809 (4th Cir. 1978)).

The United States Court of Appeals for 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)). Tillman states that he never received the February 20, 2015 Memorandum Order directing him to file a particularized complaint. (Rule 59(e) Mot. 1.) While Tillman provides no argument in support of his motion, nevertheless, in order to prevent manifest injustice, Tillman's Rule 59(e) Motion (ECF No. 27) will be GRANTED. The March 24, 2015 Memorandum Opinion and Order will be VACATED.

The Clerk will be DIRECTED to mail a copy of the February 20, 2015 to Tillman. The Court will DIRECT Tillman to submit a particularized complaint that complies with the directives in the February 20, 2015 Memorandum Order within fourteen (14) days of the date of entry thereof. **FAILURE TO COMPLY WITH THE FOREGOING DIRECTIVES WILL RESULT IN DISMISSAL OF THE ACTION.** See Fed. R. Civ. P. 41(b).

An appropriate Order will accompany this Memorandum Opinion.

Date: 4-28-15
Richmond, Virginia

<p>_____ /s/ James R. Spencer Senior U. S. District Judge</p>
