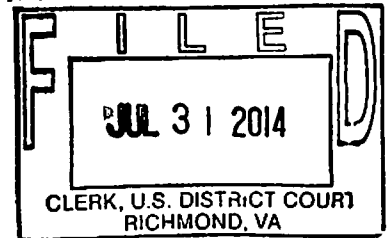


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



RALPH M. SMITH,

Petitioner,

v.

Civil Action No. 3:14CV346

EDDIE PEARSON,

Respondent.

MEMORANDUM OPINION

Petitioner, a Virginia state prisoner proceeding *pro se*, submitted a 28 U.S.C. § 2254 petition. By Memorandum Order entered on June 30, 2014, the Court directed Petitioner, within eleven (11) days of the date of entry thereof, to pay the \$5.00 filing fee or explain any special circumstances that would warrant excusing payment of the filing fee. The Court warned Petitioner it would dismiss the action if Petitioner did not pay the filing fee or explain any special circumstances that would warrant excusing payment of the filing fee. More than eleven (11) days have elapsed since the entry of the June 30, 2014 Memorandum Order and Petitioner has not responded.¹ Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appeal may not be taken from the final order in a § 2254 proceeding unless a judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A). A certificate of appealability will not issue unless a prisoner makes “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). This requirement is satisfied only when “reasonable jurists could

¹ On July 15, 2014, the Court received a letter in another pending civil action in which Petitioner asks the Court to debit \$5.00 from his inmate account. *See* Letter at 1, *Smith v. Pearson*, No. 3:14CV348 (E.D Va. July 15, 2014) (ECF No. 5.) To the extent Petitioner intended the letter to be filed in the instant case, as explained in the May 28, 2014 Order that conditionally filed his petition, Petitioner bears the responsibility for accumulating and submitting full payment.

debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). No law or evidence suggests that Petitioner is entitled to further consideration in this matter. The Court will deny Petitioner a certificate of appealability.

An appropriate Order shall accompany this Memorandum Opinion.

Date: 7-31-14
Richmond, Virginia

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