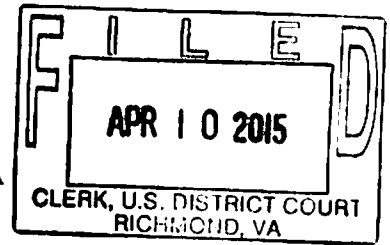


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



KENNETH NEWKIRK,)
)
 Petitioner,)
)
 v.)
)
 DIRECTOR, DEPT. OF)
 CORRECTIONS)
)
 Respondent.)

Civil Action No. 3:15CV172-HEH

MEMORANDUM OPINION
(Dismissing Without Prejudice 28 U.S.C. § 2254 Petition)

Kenneth Newkirk, a Virginia state prisoner proceeding *pro se*, filed a petition pursuant to 28 U.S.C. § 2254 (“§ 2254 Petition”). By Memorandum Opinion and Order entered on September 9, 2013 (ECF Nos. 6, 7), the Court dismissed an earlier 28 U.S.C. § 2254 petition filed by Newkirk for failure to exhaust his state court remedies. *See Newkirk v. Lerner*, No. 3:13CV570-HEH, 2013 WL 4811219, at *1 (E.D. Va. Sept. 9, 2013) (“*Newkirk I*”). The Order in *Newkirk I* informed Newkirk:

Before the Court will consider any future habeas petition from Newkirk, he must explain how he has exhausted his state court remedies. Accordingly, Newkirk must attach to the front of any future petition the following statement: “I have pursued all of my state court remedies for the claims and convictions described herein.” Failure to comply with this directive will result in summary dismissal of the action.

Newkirk I at *1.

Newkirk's current § 2254 Petition fails to comply with the Court's Order.¹

Accordingly, the action will be dismissed without prejudice. A certificate of appealability will be denied.

An appropriate Order shall accompany this Memorandum Opinion.

Date: April 9, 2015
Richmond, Virginia

HEH /s/
Henry E. Hudson
United States District Judge

¹ Moreover, Newkirk's current habeas petition states that his direct appeal is pending in the Court of Appeals of Virginia. (§ 2254 Pet. at 3.)