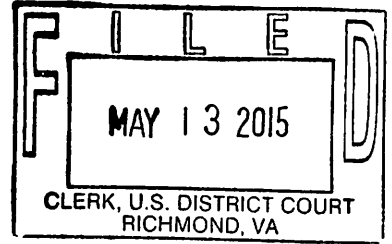


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division



ALLAN THOMAS PETIT,

Petitioner,

v.

Civil Action No. 3:15CV266

UNKNOWN,

Respondent.

**MEMORANDUM OPINION**

Petitioner, a Virginia prisoner proceeding *pro se*, submitted a “Notice of Appeal/Writ of Habeas Corpus 28 U.S.C. § 2254.” (“Notice of Appeal,” ECF No. 1.) Petitioner has not filed the standard forms for filing a habeas petition and states “it is [his] intention to file petition forms . . . and brief by 7-21-2015.” (Notice of Appeal 1.) In essence, Petitioner has submitted a request for an extension of time in which to file his 28 U.S.C. § 2254 petition.

Federal courts, lack jurisdiction to consider the timeliness of a § 2254 petition until it is actually filed. *Gregory v. Bassett*, No. 3:07cv790, 2009 WL 455267, at \*2 (E.D. Va. Feb. 23, 2009) (citations omitted); *United States v. White*, 257 F. App’x 608, 609 (4th Cir. 2007) (holding that no case or controversy existed before § 2255 motion was actually filed (citing *United States v. Leon*, 203 F.3d 162, 164 (2d Cir. 2000))). Because a § 2254 petition did not accompany Petitioner’s Notice of Appeal and because the Notice of Appeal did not contain any cognizable claims for habeas relief, the action will be DISMISSED WITHOUT PREJUDICE.

The Clerk is DIRECTED to mail Petitioner the standardized form for filing a § 2254 petition. If Petitioner wishes to file a § 2254 petition he must complete and return the form to the Court.

An appropriate order shall issue.

Date: 5-12-15  
Richmond, Virginia

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