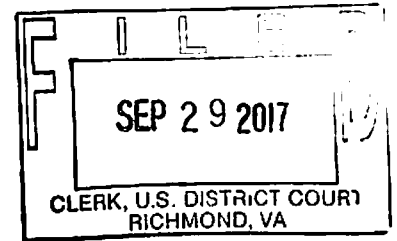


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**



FRANCIS MASIKA,

Petitioner,

v.

Civil Action No. **3:17CV542**

CITY OF CHESAPEAKE,

Respondent.

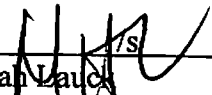
MEMORANDUM OPINION

On August 2, 2017, Petitioner, a former Virginia inmate proceeding *pro se*, submitted a document entitled “Request for Change of Venue.” (ECF No. 1.) It was not clear from Petitioner’s submission whether he wished to pursue a civil rights action challenging the conditions of his confinement under 42 U.S.C. § 1983 or a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Given the content of his submission, the Court gave Petitioner the opportunity to pursue this action as a petition for a writ of habeas corpus under 28 U.S.C. § 2254. *See Rivenbark v. Virginia*, 305 F. App’x 144, 145 (4th Cir. 2008). Accordingly, by Memorandum Order entered on August 24, 2017, the Court directed the Clerk to send both a 42 U.S.C. § 1983 complaint form and a 28 U.S.C. § 2254 form to Petitioner. The Court directed Petitioner, within fifteen (15) days of the date of entry thereof, to complete and return either a 28 U.S.C. § 2254 petition or a 42 U.S.C. § 1983 complaint. The Court warned Petitioner that the failure to comply with the above directive would result in the dismissal of the action without prejudice. *See Fed. R. Civ. P. 41(b)*.

More than fifteen (15) days have elapsed since the entry of the August 24, 2017 Memorandum Order and Petitioner has not responded. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall accompany this Memorandum Opinion.

Date: **SEP 29 2017**
Richmond, Virginia



M. Hannah Lauch
United States District Judge