

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

TERENCE BUSH,)
)
 Plaintiff,)
)
 v.) Civil Action No. 3:21CV650-HEH
)
 HAROLD W. CLARK,)
)
 Defendant.)

MEMORANDUM OPINION
(Dismissing Action Without Prejudice)

Plaintiff, a Virginia inmate proceeding *pro se*, submitted a complaint pursuant to 42 U.S.C. § 1983 challenging his state sentence. (ECF No. 1.) Given the content of his complaint, the Court found it appropriate to give Plaintiff 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 October 27, 2021, the Court directed the Clerk to send Plaintiff standardized forms for filing both a 42 U.S.C. § 1983 action and a 28 U.S.C. § 2254 action. The Court directed Plaintiff, within fifteen (15) days of the date of entry thereof, to complete and return the standardized form that was provided to him for filing either a 42 U.S.C. § 1983 action or a 28 U.S.C. § 2254 action. The Court warned Plaintiff that failure to complete and return one of the two provided forms would result in dismissal of the action.

More than fifteen (15) days have passed since the entry of the October 27, 2021 Memorandum Order, and Plaintiff has not completed and returned either of the two forms that were provided to him, or otherwise communicated with the Court. Plaintiff's failure

to comply with the October 27, 2021 Memorandum Order indicates a lack of interest in litigating this matter. *See* Fed. R. Civ. P. 41(b). Accordingly, the action will be dismissed without prejudice.

An appropriate Order shall accompany this Memorandum Opinion.



/s/

Henry E. Hudson
Senior United States District Judge

Date: Jan. 10, 2022
Richmond, Virginia