

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

Richmond Division

RANDY JONES,
Plaintiff,

v.

Civil No. 3:21cv749(DJN)

UNKNOWN,
Defendants.

MEMORANDUM OPINION

By Memorandum Order entered on January 19, 2022, the Court conditionally docketed Plaintiff's civil action. (ECF No. 2.) At that time, the Court directed Plaintiff to submit an *in forma pauperis* affidavit and a consent to collection of filing fees form within thirty (30) days of the date of entry thereof. The Court warned Plaintiff that the Court would dismiss the action if Plaintiff failed to comply with the January 19, 2022 Memorandum Order. More than thirty (30) days elapsed and Plaintiff failed to respond the January 19, 2022 Memorandum Order.

Accordingly, by Memorandum Opinion and Order entered on March 3, 2022 the Court dismissed the action without prejudice. (ECF No. 5.)

On March 23, 2022, the Court received from Plaintiff a letter motion for an extension of time and a notice of appeal. (ECF Nos. 6, 7.) Because the letter motion for an extension of time was received within twenty-eight days after the entry of the March 3, 2022 Memorandum Opinion and Order, the Court will construe this submission as a motion filed pursuant to Federal Rule of Civil Procedure 59(e) ("Rule 59(e) Motion"). *See MLC Auto., LLC v. Town of S. Pines*, 532 F.3d 269, 277–78 (4th Cir. 2008) (filings made within twenty-eight days after the entry of judgment construed as Rule 59(e) motions (citing *Dove v. CODESCO*, 569 F.2d 807, 809 (4th Cir. 1978))).

Plaintiff explains that he has

been having problems with this jail receiving my paperwork regarding this civil matter. I'm also indigent so I haven't had the money to mail off the legal paperwork properly.¹

My release date is April 11th, 2022 and I plan on having payments and paperwork sent to you in full. With respect, I'm asking for an extension until then, that way I can contact you personally with my attorney. . . .

(ECF No. 6, at 1.) Given these circumstance, Plaintiff's Rule 59(e) Motion (ECF No. 6) will be GRANTED. The March 3, 2021 Memorandum Opinion and Order (ECF Nos. 4-5) will be VACATED. The Court will CONTINUE to process the action. Plaintiff has thirty (30) days from the date of entry hereof to comply the terms of the January 19, 2022 Memorandum Order.

An appropriate Order shall issue.

Let the Clerk file a copy of the Memorandum Opinion electronically and send a copy to Plaintiff.

/s/



David J. Novak
United States District Judge

Richmond, Virginia
Dated: April 22, 2022

¹ Plaintiff's inmate account reflects that he has a negative balance of \$627.70. (ECF No. 3, at 1.)