

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

MICHAEL WAYNE AMBROSE,

Petitioner,

v.

Civil Action No. **3:22CV672**

UNKNOWN,

Respondent.

MEMORANDUM OPINION

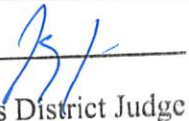
Petitioner, a Virginia inmate proceeding *pro se*, submitted what appears to be a form for filing a habeas petition in the Virginia state courts. It is unclear from his submission whether he intends to pursue a state habeas petition in the Circuit Court for the City of Roanoke where he was convicted and simply mailed the form to the wrong court, or if he intends to pursue a § 2254 petition in federal court. Nevertheless, given the content of this document, it is appropriate to give 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).

By Memorandum Order entered on October 31, 2022, the Court directed Petitioner, within twenty (20) days of the date of entry thereof, to complete and return the standardized form for filing a § 2254 petition if he wished to file a petition for a writ of habeas corpus. The Court warned Petitioner that the failure to comply with the terms of the October 31, 2022, Memorandum Order would result in the dismissal of the action. *See Fed. R. Civ. P. 41(b)*.

More than twenty (20) days have elapsed and Petitioner has not completed and returned the § 2254 form. Accordingly, the action will be **DISMISSED WITHOUT PREJUDICE**. A certificate of appealability will be **DENIED**.

An appropriate Final Order shall accompany this Memorandum Opinion

Date: 7 December 2022
Richmond, Virginia

/s/ 

John A. Gibney, Jr.
Senior United States District Judge