

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

DONALD PARKER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:23-cv-42-HEH
)	
NURSE C. BOYD, <i>et al.</i> ,)	
)	
Defendants.)	

**MEMORANDUM OPINION
(Dismissing Action Without Prejudice)**

Plaintiff Donald Parker (“Plaintiff”), a Virginia inmate proceeding *pro se* and *in forma pauperis*, filed this 42 U.S.C. § 1983 action. In his Complaint, he names Nurse C. Boyd, Mr. R. Meneses, and the Hampton Roads Regional Jail. (ECF No. 1.) Plaintiff contends that from October 2022 through December 2022, Nurse Boyd gave him the wrong medicine, conducted his diabetic check through the food slot which could cross contaminate his food, and failed to change her gloves between inmates. (*Id.* at 1–6.) Plaintiff further contends that his request for a different nurse was denied, and, as a result, he did not get his medications at times. (*Id.*) Plaintiff also alleges that his grievances were ignored. (*Id.*) Though Plaintiff was charged with threatening Nurse Boyd because he refused to take medicine from her, the charge was dismissed. (*Id.*) Plaintiff contends that Nurse Boyd continues to harass him and argues that this conduct violated his Eighth Amendment rights. (*Id.* at 5.)


A review of the Court’s docket reflects that Plaintiff has what appears to be an identical complaint pending in the Norfolk Division of this Court, naming C. Boyd, R. Meneses, A. Sweat, Lt. Col. Vargakas, and the Hampton Roads Regional Jail. *Parker v. Boyd*, No. 2:23-cv-143–MSD–RJK (E.D. Va. Apr. 5, 2023).¹ A Motion to Dismiss has been filed in that action, and Plaintiff has responded. *See id.* at ECF Nos. 3, 9. By Memorandum Order entered on October 6, 2023, the Court explained that Plaintiff may not litigate the same claims against the same defendants in two different civil actions. (ECF No. 18.) Accordingly, the Court directed that, within twenty (20) days of the date of entry thereof, Plaintiff must show cause why this action should not be dismissed without prejudice in light of Plaintiff’s litigation of his claims in *Parker v. Boyd*, No. 2:23-cv-143–MSD–RJK pending in the Norfolk Division. (*Id.*) The Court explained that a failure to comply with the Court’s directive would result in summary dismissal of the action. (*Id.*)

On November 1, 2023, the Court received Plaintiff’s response. (ECF No. 20.) Although Plaintiff’s response is not entirely clear, he expresses that he made a mistake and indicates that he “will be writing the Norfolk Division to inform them that the complaint pending can be drop[ped] or dismiss[ed.] This was just a misunderstanding with the division that I . . . [was] supposed to file in.” (*Id.* at 2.) Plaintiff “request[s] that this civil action stay in the Richmond Division and not [] be dismiss[ed].” (*Id.*) The

¹ This case was removed to federal court by the defendants. Plaintiff added the two additional defendants, not present in the case at hand, on the first cover page of the Complaint that was originally filed in the Portsmouth Circuit Court. (Compl. at 3, *see Parker v. Boyd*, No. 2:23-cv-143–MSD–RJK (E.D. Va. Apr. 5, 2023), ECF No. 1–2).

Court has reviewed the docket for the Norfolk Division and Plaintiff has not filed anything since May of 2023 and has not written to that Division in the time since the Court received his response. Accordingly, because Plaintiff may not litigate the same claims in two different actions, this action will be DISMISSED WITHOUT PREJUDICE to Plaintiff's litigation of the claims in *Parker v. Boyd*, No. 2:23-cv-143-MSD-RJK.

An appropriate Final Order will accompany this Memorandum Opinion.

 /s/

Henry E. Hudson
Senior United States District Judge

Date: Dec. 7, 2023
Richmond, Virginia