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

JOHN LAMB,

      Plaintiff,

v.   Civil Action No. **3:23CV136 (RCY)**

UNKNOWN,

      Defendant.

MEMORANDUM OPINION

Plaintiff, a Virginia inmate proceeding *pro se*, submitted a letter to the Court complaining about his ongoing state criminal proceedings. (ECF No. 1.) By Memorandum Order entered on March 1, 2023, the Court explained that it would not conduct a general inquiry into his state court criminal proceeding and that Plaintiff must identify a violation of federal or constitutional law. The Court also explained that it was not clear from Plaintiff's submissions 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. *See Rivenbark v. Virginia*, 305 F. App'x 144, 145 (4th Cir. 2008). Accordingly, the Clerk mailed Plaintiff both a 42 U.S.C. § 1983 form and a 28 U.S.C. § 2254 form. The Court instructed Plaintiff that he must complete the forms for **either** a 28 U.S.C. § 2254 petition **or** a 42 U.S.C. § 1983 action and return the same to the Court within thirty (30) days of the date of entry thereof.

Plaintiff wrote several letters but did not return a form. By Memorandum Order entered on April 19, 2023, the Court explained that if Plaintiff wished to proceed with this action, he must return either a § 2254 petition form or a § 1983 complaint form to the Court within twenty (20) days of the date of entry thereof. The Court explained that the failure to complete an appropriate

form and return it to the Court within that time would result in the dismissal of the action. *See* Fed. R. Civ. P. 41(b).

More than twenty (20) days have elapsed and Plaintiff has not completed and returned either form. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall accompany this Memorandum Opinion.

_____ /s/

Roderick C. Young
United States District Judge

Date: May 16, 2023
Richmond, Virginia