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 AT ROANOKE, VA
 FILED

MAY 15 2009

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**IN THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF VIRGINIA
 ROANOKE DIVISION**

JEROME BAILEY,)	
)	
Plaintiff,)	Case No. 7:09CV00177
)	
v.)	
)	<u>FINAL ORDER</u>
KENNETH L. OSBOURNE,)	
)	By: Glen E. Conrad
Defendant.)	United States District Judge
)	

In accordance with the accompanying memorandum opinion, it is hereby

ORDERED

that this civil rights action, pursuant to 42 U.S.C. § 1983, is **CONSTRUED** as a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254; is hereby **DISMISSED** without prejudice, pursuant to Rule 4 of the Rules Governing § 2254 Cases; and is stricken from the active docket of the court.

ENTER: This 15th day of May, 2009.

Glen E. Conrad

 United States District Judge