

MAY 08 2012

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

JULIA C. DUDLEY, CLERK  
BY: *J. C. Turk*  
DEPUTY CLERK

AUDIE WAYNE TALLEY,	)	CASE NO. 7:12CV00176
	)	
Plaintiff,	)	
	)	FINAL ORDER
vs.	)	
	)	
ABINGDON POLICE DEPARTMENT,	)	
OFFICER WOLFE,	)	By: James C. Turk
	)	Senior United States District Judge
Defendant(s).	)	

In accordance with the accompanying memorandum opinion, it is hereby

**ADJUDGED AND ORDERED**

that plaintiff's civil rights complaint under 42 U.S.C. § 1983, alleging he has been wrongfully confined for violating a protective order never served on him, is hereby **CONSTRUED** as a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, and is summarily **DISMISSED** without prejudice for failure to exhaust state court remedies; this action is stricken from the active docket of the court; and finding that petitioner has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

**ENTER:** This 8<sup>th</sup> day of May, 2012.

*James C. Turk*  
\_\_\_\_\_  
Senior United States District Judge