

MAY 09 2013

JULIA C. DUDLEY, CLERK
BY: DEPUTY CLERK

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

ROBERT W. DOUGHERTY,) **CASE NO. 7:12CV00549**
)
 Plaintiff,)
) **MEMORANDUM OPINION**
 v.)
)
 COMMONWEALTH OF VIRGINIA,)
 ET AL.,) **By: Glen E. Conrad**
) **Chief United States District Judge**
 Defendant(s).)

Robert W. Daugherty, a Virginia inmate proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983. By prior memorandum opinion and order, the court summarily dismissed the action under 28 U.S.C. § 1915A(b)(1), finding that plaintiff's allegations and submissions failed to give rise to any actionable § 1983 claim. Plaintiff has now moved for appointment of counsel, for leave to file an amended complaint, and to alter or amend the judgment. After review of plaintiff's motions and the record, the court concludes that all the motions must be denied.

Dougherty fails to state any factual or legal reason that the court's opinion and order should be altered or amended. Since the court determined Dougherty's submissions did not indicate that he had any actionable § 1983 claim against anyone, the court also finds no justification for allowing an amended complaint to be filed in this closed case or for appointing counsel to assist plaintiff in doing so. The action was dismissed without prejudice, which leaves plaintiff free to file a new complaint, provided that he complies with the Federal Rules of Civil Procedure and other filing requirements and states actionable claims. Indeed, under these circumstances, the filing of a new case would seem to be the most appropriate course for plaintiff to pursue.

For the reasons stated, plaintiff's motions are denied. An appropriate order will issue this day. The Clerk is directed to send copies of this memorandum opinion and accompanying order to plaintiff.

ENTER: This 9th day of May, 2013.



Chief United States District Judge