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

JACK RANDALL CRABTREE, **Petitioner,**	)	**Civil Action No. 7:16-cv-00169**
	)	**MEMORANDUM OPINION**
v.	)	
	)	**By: Hon. Michael F. Urbanski**
HAROLD W. CLARKE, **Respondent.**	)	**United States District Judge**

Jack Randall Crabtree, a Virginia inmate proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges the validity of his confinement pursuant to the April 29, 2015, judgment of the Russell County Circuit Court. After reviewing the petition, the court finds that it should be dismissed summarily pursuant to Rule 4 of the Rules Governing § 2254 Cases.[1]

A federal court may not grant a § 2254 habeas petition unless the petitioner exhausted the remedies available in the courts of the state in which petitioner was convicted. 28 U.S.C. § 2254(b); O'Sullivan v. Boerckel, 526 U.S. 838 (1999); Preiser v. Rodriguez, 411 U.S. 475 (1973); Slayton v. Smith, 404 U.S. 53 (1971). Petitioner acknowledges that he filed a state petition for a writ of habeas corpus with the Supreme Court of Virginia contemporaneously with the federal petition, and the state habeas petition remains pending with the Supreme Court of Virginia. Petitioner must receive a ruling from the Supreme Court of Virginia before a federal district court can consider the claims, and Petitioner fails to establish an adequate basis to stay the federal petition. See, e.g., Rhines v. Weber, 544 U.S. 269, 277 (2005). Accordingly, the federal petition is dismissed without prejudice as unexhausted. Based upon the finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as

[1] A petition may be dismissed pursuant to Rule 4 if it is clear from the petition that a petitioner is not entitled to relief.

required by 28 U.S.C. § 2253(c) and Slack v. McDaniel, 529 U.S. 473, 484 (2000), a certificate of appealability is denied.

ENTER: This 6th day of May, 2016.

/s/ Michael F. Urbanski

United States District Judge