

FEB 24 2017

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

ELRODA SHAVAYA THOMPSON,)
Plaintiff,)
v.)
C. RATLEDGE, et al.,)
Defendants.)

Civil Action No. 7:16-cv-00493

MEMORANDUM OPINION

By: Hon. Michael F. Urbanski
United States District Judge

Elroda Shavaya Thompson, proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, complaining about his confinement in the segregation unit at the United States Penitentiary in Lee County, Virginia (“USP Lee”). Thompson did not pay a filing fee or document a request to proceed in forma pauperis.

On October 28, 2016, the court construed the petition as a civil rights complaint pursuant to Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), and ordered him to file financial data in accordance with 28 U.S.C. § 1915. The court further ordered him to maintain an accurate mailing address and that a failure to comply with either of these conditions would result in dismissal of the complaint without prejudice.

On November 21, 2016, the court received a letter from Thompson, saying he will be transferred from USP Lee soon and he would provide an updated mailing address within three weeks. Three months have passed, the court’s prior Order was not returned to the court as undeliverable, and Thompson has neither updated his mailing address nor filed the requested financial data. Accordingly, the court dismisses the complaint without prejudice for failing to comply with the court’s Order and for failing to prosecute. See Ballard v. Carlson, 882 F.2d 93, 96 (4th Cir. 1989) (stating pro se litigants must respect court orders and dismissal is an appropriate sanction for non-compliance); Donnelly v. Johns-Manville Sales Corp., 677 F.2d 339, 340-41 (3d Cir. 1982) (recognizing a district court may sua sponte dismiss an action

pursuant to Fed. R. Civ. P. 41(b)). Thompson may refile the claims in a new and separate action once he is prepared to comply with the noted conditions.

ENTER: This 24th day of February, 2017.

/s/ Michael F. Urbanski

United States District Judge