

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
VIRGINIA

Shyriq Parham v. L. Hardy, et al.

Parham · No. 3:26CV235 · Decided May 15, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia dismissed without prejudice a Virginia inmate's action after he failed to return a required form converting his emergency motion into a petition under 28 U.S.C. § 2254. The court also denied a certificate of appealability.

CASE DETAILS

|                    |                                                                                                                                                                                                                                                                                                                                                                                                      |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | United States District Court for the Eastern District of Virginia                                                                                                                                                                                                                                                                                                                                    |
| JURISDICTION       | United States District Court for the Eastern District of Virginia                                                                                                                                                                                                                                                                                                                                    |
| DECIDED            | May 15, 2026                                                                                                                                                                                                                                                                                                                                                                                         |
| DOCKET             | 3:26CV235                                                                                                                                                                                                                                                                                                                                                                                            |
| DISPOSITION        | dismissed                                                                                                                                                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE | A Virginia inmate filed an emergency motion for a temporary restraining order and preliminary injunction seeking immediate release from confinement. The court treated the filing as potentially seeking habeas relief under 28 U.S.C. § 2254, directed him to complete and return a § 2254 petition form within twenty days, and dismissed the action without prejudice after he failed to respond. |
| PRECEDENTIAL VALUE | nonprecedential                                                                                                                                                                                                                                                                                                                                                                                      |
| PARTIES            | Shyriq Parham v. L. Hardy, et al.                                                                                                                                                                                                                                                                                                                                                                    |

TOPICS

- federal habeas corpus
- post-conviction relief
- default
- appellate procedure
- civil procedure

PRACTICE AREAS

- federal habeas corpus
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) after petitioner failed to comply with the court's order requiring submission of a completed § 2254

petition form.

2. Whether petitioner was entitled to a certificate of appealability.

## HOLDINGS

1. The action was properly dismissed without prejudice under Federal Rule of Civil Procedure 41(b) because petitioner failed to comply with the court's order and did not respond within the prescribed twenty-day period.
2. A certificate of appealability was denied because petitioner failed to make a substantial showing of the denial of a constitutional right.

## KEY QUOTATIONS

*“Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.”*

*“A certificate of appealability will not issue unless a prisoner makes “a substantial showing of the denial of a constitutional right.””*

*“This requirement is satisfied only when “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’”” (484)*

## FACTUAL BACKGROUND

Petitioner was a Virginia inmate seeking immediate release from confinement. Although he styled his filing as an emergency motion for a temporary restraining order and preliminary injunction, the court determined that its substance could be pursued as a petition for a writ of habeas corpus under 28 U.S.C. § 2254. After receiving notice and a § 2254 petition form, petitioner failed to return the form within the required twenty-day period.

## PROCEDURAL HISTORY

Petitioner initiated the action by filing an emergency motion for a temporary restraining order and preliminary injunction. The court issued an April 8, 2026 memorandum order giving petitioner the opportunity to proceed under § 2254 and warning that failure to return the required form within twenty days would result in dismissal under Federal Rule of Civil Procedure 41(b). Petitioner did not respond, so the court dismissed the action without prejudice and denied a certificate of appealability.

## DISPOSITION

dismissed

## CASES CITED

- Rivenbark v. Virginia, 305 F. App'x 144, 145 (4th Cir. 2008)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)
- Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983)

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