

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ZEBEDEE MILBY,

Plaintiff,

v.

Civil Action No. 3:17cv590

**OFFICE OF THE FEDERAL
REGISTRAR,**

Defendant.

ORDER

This matter comes before the Court on the Opinion, Judgment, and Mandate of the United States Court of Appeals for the Fourth Circuit. (ECF Nos. 6, 7, 12.) On October 6, 2017, this Court dismissed Milby's Complaint without prejudice for lack of standing. (Oct. 6, 2017 Mem. O. 4, ECF No. 2.) The Court further granted Milby leave to file an amended complaint no later than close of business October 20, 2017. (*Id.*) On October 19, 2017, Milby appealed the Court's Memorandum Order to the Fourth Circuit. (ECF No. 4.)

On February 16, 2018, the Fourth Circuit dismissed Milby's appeal for lack of jurisdiction. *Milby v. Office Fed. Registrar*, No. 17-2234, slip. op. at 2 (4th Cir. 2018). The Fourth Circuit remanded the case to this Court "with instructions to allow Milby to amend his complaint." *Id.* On March 8, 2018, the Fourth Circuit stayed its mandate, (ECF No. 10), and on April 30, 2018, the Fourth Circuit issued an order denying Milby's petition for rehearing, (ECF No. 11). On May 8, 2018, the Fourth Circuit issued its mandate, stating that its judgment of February 16, 2018, "takes effect today." (Mandate 1, ECF No. 12.)

In accordance with the Fourth Circuit's instructions, the Court ORDERS the following:

1. The Court GRANTS Milby leave to file an amended complaint. Milby shall file his amended complaint no later than close of business May 24, 2018.

2. The amended complaint SHALL COMPLY with the following directions:
 - a. At the very top of the amended pleading, Milby must place the following caption in all capital letters: "AMENDED COMPLAINT FOR CIVIL ACTION NUMBER 3:17cv590."
 - b. The first paragraph of the amended complaint pleading must contain a list of defendants. Thereafter, in the body of the amended complaint, Milby must set forth legibly, in separately numbered paragraphs, a short statement of the facts giving rise to his claims for relief. Thereafter, in separately captioned sections, Milby must clearly identify each federal or state law allegedly violated. Under each section, Milby must list each defendant purportedly liable under that legal theory and explain why he believes each defendant is liable to him. Such explanation should reference the specific numbered factual paragraphs in the body of the amended complaint that support that assertion. Milby shall also include a prayer for relief.
 - c. The amended complaint must stand or fall of its own accord. Milby may not reference statements in the prior complaint.
 - d. The amended complaint must omit any unnecessary incorporation of factual allegations for particular claims and any claim against any defendant that is not well-grounded in the law and fact. *See Sewraz v. Guice*, No. 3:08-CV-035, 2008 WL 3926443, at *2 (E.D. Va. Aug. 26, 2008).
3. The failure to comply strictly with the requirements set forth above will result in dismissal of the action WITH PREJUDICE. *See* Fed. R. Civ. P. 41(b).¹

Let the Clerk send a copy of this Order to Milby at his address of record and to any counsel of record.

It is so ORDERED.

Date: 5/10/2018
Richmond, Virginia



/s/ M. Hannah Lauck
United States District Judge

¹ The rule states, in pertinent part: "**(b) Involuntary Dismissal; Effect.** If the plaintiff fails . . . to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it." Fed. R. Civ. P. 41(b).