

EXHIBIT "A"

UNITED STATES DISTRICT COURT
EASTERN DIVISION OF VIRGINIA, NORFOLK DIVISION
JUDGEMENT

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

DARRELL WAYNE BROWN,

Plaintiff,

v.

KEVIN MICHAEL COMSTOCK,

Civil No. 2:19cv206

Defendant.

JUDGMENT IN A CIVIL CASE

Decision by the Court. This action came for decision before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that Plaintiff's First Motion to Compel, ECF No. 12, is DENIED; Plaintiff's Second Motion to Compel, ECF No. 14, is DENIED; and AUSA Comstock's Motion to Dismiss, ECF No. 5, is GRANTED.

DATED: 3/11/2020

FERNANDO GALINDO, Clerk

By _____/s/
E. Price, Deputy Clerk

Other Orders/Judgments

2:19-cv-00206-AWA-DEM Brown
v. Comstock

JURY,PRO SE

U.S. District Court

Eastern District of Virginia -

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Case Name: Brown v. Comstock
Case Number: 2:19-cv-00206-AWA-DEM

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CLERK'S JUDGMENT. Signed by Clerk on 3/11/2020. (epri,)

2:19-cv-00206-AWA-DEM Notice has been electronically mailed to:

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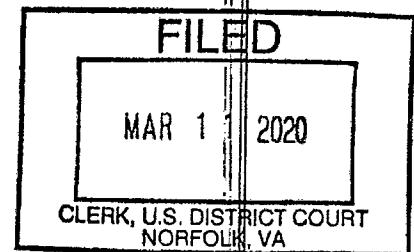
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division



DARRELL WAYNE BROWN,

Plaintiff,

v.

ACTION NO. 2:19cv206

KEVIN MICHAEL COMSTOCK,

Defendant.

DISMISSAL ORDER

This matter is before the Court on the following motions filed by *pro se* Plaintiff Darrell Wayne Brown (“Plaintiff”) and Defendant Assistant United States Attorney Kevin Michael Comstock (“AUSA Comstock”): (i) AUSA Comstock’s Motion to Dismiss, ECF No. 5; (ii) Plaintiff’s first Motion to Compel (“First Motion to Compel”), ECF No. 12; and (iii) Plaintiff’s second Motion to Compel (“Second Motion to Compel”), ECF No. 14. The Court concludes that oral argument is unnecessary because the facts and legal arguments are adequately presented in the parties’ briefs. For the reasons set forth below, Plaintiff’s First Motion to Compel, ECF No. 12, is **DENIED**; Plaintiff’s Second Motion to Compel, ECF No. 14, is **DENIED**; and AUSA Comstock’s Motion to Dismiss, ECF No. 5, is **GRANTED**.

I. Factual and Procedural Background

In October 2013, a grand jury indicted Plaintiff on seven counts related to the distribution of narcotics.¹ Indictment, *United States v. Brown*, No. 2:13cr146 (E.D. Va. Oct. 23, 2013), ECF

¹ As set forth herein, AUSA Comstock seeks dismissal of this action pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(b)(5). Mem. Supp. Mot. Dismiss at 2–3, ECF No. 6. “In reviewing a Rule 12(b)(6) dismissal [motion], [the Court] may properly take judicial notice of

No. 14. On December 23, 2013, Plaintiff, with the assistance of counsel, entered into a Plea Agreement with the United States, in which Plaintiff pled guilty to Count I of the Indictment, which charged Plaintiff with “Conspiracy to Manufacture, Distribute and Possess with Intent to Manufacture and Distribute One (1) kilogram or more of a mixture and substance containing a detectable amount of Heroin, a Schedule I Narcotic Controlled Substance.” Plea Agreement at 1, *United States v. Brown*, No. 2:13cr146 (E.D. Va. Dec. 23, 2013), ECF No. 25.

In the Plea Agreement, Plaintiff agreed, among other things, that (i) Plaintiff was “in fact guilty of the charged offense;” (ii) Plaintiff’s attorney “rendered effective assistance;” (iii) “the Court ha[d] jurisdiction and authority to impose” Plaintiff’s sentence; and (iv) Plaintiff knowingly waived the “right to appeal the conviction and any sentence within the statutory maximum² . . . on any ground whatsoever.” *Id.* at 2–3. AUSA Comstock served as the Assistant United States Attorney, who prosecuted Plaintiff’s criminal case and signed the Plea Agreement on behalf of the United States. *Id.* at 12. On March 20, 2014, Plaintiff was sentenced to a term of 240 months of imprisonment and five years of supervised release, and was assessed a monetary penalty of \$100.00. Judgment at 2–5, *United States v. Brown*, No. 2:13cr146 (E.D. Va. Mar. 25, 2014), ECF No. 38.

On April 22, 2019, Plaintiff paid the requisite filing fees, and filed his Complaint in the instant action. Compl., ECF No. 1. In this action, Plaintiff challenges the Court’s ability to

matters of public record,” including prior court cases. *See Philips v. Pitt Cty. Mem. Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009).

² According to the Plea Agreement, the “maximum penalties for this offense [were] a mandatory minimum term of imprisonment of 10 years, a maximum term of Life, a fine of 10 million dollars, full restitution, a special assessment, and 5 years of supervised release.” Plea Agreement at 1, *United States v. Brown*, No. 2:13cr146 (E.D. Va. Dec. 23, 2013), ECF No. 25.

exercise jurisdiction over Plaintiff in his prior criminal case.³ *Id.* at 1–17. In his Complaint, which is difficult to decipher, Plaintiff characterizes himself as a “non-person,” “non-resident,” “non-debtor,” “non-corporate,” “non-fiction,” “non-subject,” “non-participant in any government programs,” “[l]iving flesh and blood man,” “non-citizen,” who is “without legal domicile” and who is “outside [of] any/all general jurisdiction of the federal government.” *Id.* at 8 (capitalization omitted). Plaintiff’s Complaint includes a section titled, “Jurisdictional Complaint,” in which Plaintiff states: “Jurisdiction, once challenged, is to be proven, not by the Court, but by the party attempting to assert jurisdiction, the burden of proof of jurisdiction lies with the asserter in which is [AUSA Comstock].” *Id.* at 9. Plaintiff further states that he believes that “any/all Cause(s)” against him “should be dismissed for lack of subject matter jurisdiction.” *Id.* at 10. Plaintiff states that AUSA Comstock “has the duty to place all fact(s) of jurisdiction upon the record,” and “[d]emands” that the United States “produce lawful and legal proof (verified and demonstrated evidence) . . . to its alleged jurisdiction over [Plaintiff].”⁴ *Id.*

³ Plaintiff listed a residential address as his address of record on his Complaint; however, Plaintiff currently remains incarcerated at FCI Bennettsville. Compl. at 1, ECF No. 1; *see* Federal Bureau of Prisons Inmate Locator, <https://www.bop.gov/inmateloc/> (last visited Mar. 2, 2020).

⁴ The Court notes that Plaintiff filed a prior civil *pro se* prisoner Complaint in the Richmond Division of this Court in January 2017 (“*Brown I*”), in which Plaintiff appeared to challenge, among other things, the Court’s ability to exercise jurisdiction over Plaintiff in his prior criminal case. *Brown v. Virginia*, No. 3:17cv71, 2017 U.S. Dist. LEXIS 206567, at *1–2 (E.D. Va. Dec. 14, 2017). In *Brown I*, Plaintiff claimed to be “outside the jurisdiction of any court” and submitted a “notice and demand for written proof (verified and demonstrated evidence) of jurisdiction over his proper person and over the subject matter in . . . 2:13CR00146-001.” *Id.* at *2. Plaintiff further claimed that AUSA Comstock and the Commonwealth of Virginia “knowingly and willingly allow[ed] the Commonwealth to proceed against the Secured Party [Plaintiff], committing a malfeasance of justice, through negligence and/or inadvertence.” *Id.* at *6 (first alteration in original). Plaintiff claimed that the judgment in his criminal case, No. 2:13cr146, must be “vacated for want/lack of subject matter jurisdiction,” and dismissed with prejudice. *Id.*

Unlike the instant action, in which Plaintiff provided a residential address on his Complaint that suggested he was no longer incarcerated, Plaintiff listed his prison address on his Complaint in

AUSA Comstock filed a Motion to Dismiss on July 15, 2019, and provided *pro se* Plaintiff with a proper *Roseboro* Notice pursuant to Rule 7(K) of the Local Civil Rules of the United States District Court for the Eastern District of Virginia. Mot. Dismiss, ECF No. 5; *Roseboro* Notice, ECF No. 7; E.D. Va. Loc. Civ. R. 7(K). Plaintiff filed a timely Opposition to the Motion to Dismiss, and AUSA Comstock filed a timely Reply. Opp'n, ECF No. 9; Reply, ECF No. 10. Plaintiff subsequently filed a Surreply without obtaining leave of Court to do so. Surreply, ECF

Brown I. Therefore, the Court in *Brown I* conducted a screening of Plaintiff's Complaint pursuant to 28 U.S.C. § 1915A. *Id.* at *1; *see* Compl. at 1, ECF No. 1 (listing a residential address as Plaintiff's address of record in the instant action); 28 U.S.C. § 1915A(a), (b) (explaining that “[t]he court shall review . . . a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity,” and shall dismiss the complaint if it is “frivolous, malicious, or fails to state a claim upon which relief may be granted”). In a Memorandum Opinion dated December 14, 2017, the Court in *Brown I* concluded:

The Complaint in this case is utterly frivolous and delusional. It, indeed, is the epitome of frivolity and delusion. However, it is unnecessary and inappropriate to engage in [Plaintiff's] fanciful theories for relief, *see Cochran v. Morris*, 73 F.3d 1310, 1315 (4th Cir. 1996) (emphasizing that “abbreviated treatment” is consistent with Congress's vision for the disposition of frivolous or “insubstantial claims” (citing *Neitzke v. Williams*, 490 U.S. 319, 324, 109 S. Ct. 1827, 104 L. Ed. 2d 338 (1989))), because, to the extent that [Plaintiff's] allegations are comprehensible at all, it is readily apparent that they are based on “inarguable legal conclusion[s]” and “fanciful factual allegation[s].” *Neitzke*, 490 U.S. at 325. Accordingly, [Plaintiff's] Complaint will be dismissed as legally frivolous. See *Champean v. Rich*, No. 1:16CV1254 (AJT/MSN), 2016 U.S. Dist. LEXIS 156754, 2016 WL 6663909, at *3 (E.D. Va. Nov. 10, 2016) (dismissing as frivolous similar allegations), appeal dismissed, 682 Fed. Appx. 188 (4th Cir. 2017), cert. denied, 138 S. Ct. 323, 199 L. Ed. 2d 210, 2017 WL 3325030 (U.S. 2017). [Plaintiff's] Complaint is legally frivolous. The action will be dismissed.

Brown, 2017 U.S. Dist. LEXIS 206567, at *7.

Plaintiff appealed the dismissal of *Brown I* to the United States Court of Appeals for the Fourth Circuit. *See Brown v. Virginia*, 717 F. App'x. 344, 344–45 (4th Cir. 2018). The Fourth Circuit found “no reversible error,” and affirmed the dismissal “for the reasons stated by the district court.” *Id.* at 345. Plaintiff filed a petition for writ of certiorari to the United States Supreme Court, which was subsequently denied on November 19, 2018. *Brown v. Virginia*, 139 S. Ct. 571 (2018).

No. 11; *see* E.D. Va. Loc. Civ. R. 7(F)(1) (explaining that after the moving party files a reply brief, “[n]o further briefs or written communications may be filed without first obtaining leave of Court”). In deference to Plaintiff’s *pro se* status, the Court has considered Plaintiff’s *Sur* reply in its analysis of AUSA Comstock’s Motion to Dismiss. Plaintiff subsequently filed a First Motion to Compel and a Second Motion to Compel. First Mot. Compel, ECF No. 12; Second Mot. Compel, ECF No. 14. All pending motions are ripe for decision.

II. Plaintiff’s First Motion to Compel

In his First Motion to Compel, Plaintiff asks the Court to compel AUSA Comstock to respond to certain discovery. First Mot. Compel at 2–3, ECF No. 12. Plaintiff states that he filed a “Discovery/Complaint” on August 22, 2019, and claims that AUSA Comstock was required to respond to the “Discovery . . . no later than 90 days” after the document was time-stamped. *Id.* at 2. Plaintiff claims that AUSA Comstock “has refused to provide responses and has not indicated that [he] will provide such information requested by the Plaintiff.” *Id.* Plaintiff asks the Court to (i) compel AUSA Comstock “to respond to the Discovery/Complaint request;” and (ii) “enter an Order of default against [AUSA Comstock] for failure to answer or plead in said action.” *Id.* at 2, 5.

In his Opposition, AUSA Comstock states that he never received a discovery request from Plaintiff. Opp’n at 1–2, ECF No. 13. AUSA Comstock further states that (i) Plaintiff’s First Motion to Compel “does not specify what discovery request he issued or when it was served;” and (ii) “Plaintiff never contacted [AUSA Comstock] to confer about discovery without court action,” as required by the Federal Rules. *Id.* at 2.

The Court finds that Plaintiff has not justified his request to compel discovery responses from AUSA Comstock. Although Federal Rule 37 authorizes a party to move to compel responses to discovery requests, the Court finds that Plaintiff has not (i) adequately established that

he served discovery on AUSA Comstock; or (ii) adequately described the discovery sought. Fed. R. Civ. P. 37.

With respect to Plaintiff's request for the entry of default, the Court assumes that Plaintiff intended to base his request on Federal Rule 55. Pursuant to Federal Rule 55(a), default may be entered against a party who has "failed to plead or otherwise defend" in an action. Fed. R. Civ. P. 55(a). If default is entered, and not set aside for good cause, a party may move for default judgment. Fed. R. Civ. P. 55(b). Here, the Court finds that there is nothing in the record to suggest that AUSA Comstock has "failed to plead or otherwise defend" in this action. As such, Plaintiff has not established that the entry of default or default judgment is warranted.

For the reasons detailed above, Plaintiff's First Motion to Compel, ECF No. 12, is **DENIED**.

III. Plaintiff's Second Motion to Compel

It is unclear to the Court whether Plaintiff's Second Motion to Compel was intended to serve as a separate, additional motion, or a reply brief in support of Plaintiff's First Motion to Compel. Second Mot. Compel at 1-5, ECF No. 14 (characterizing the document as both a "Reply to Motion to Compel," as well as a "Motion to Compel"). In deference to Plaintiff's *pro se* status, the Court construes Plaintiff's filing as a separate, additional motion.

In his Second Motion to Compel, Plaintiff states that AUSA Comstock "was and has been served multi[ple] times via U.S. Mail . . . to answer any/all jurisdictional issue(s) and no reply has been sent to Plaintiff and/or filed with the Clerk of Courts." *Id.* at 2. Plaintiff asks the Court to require AUSA Comstock to "answer the request of any/all jurisdictional issues." *Id.* at 4-5.

To the extent Plaintiff's Second Motion to Compel is intended to serve as a request to compel AUSA Comstock to respond to certain discovery requests, Plaintiff's Second Motion to Compel fails for the same reasons that his First Motion to Compel fails. *See supra* Part II. To

the extent Plaintiff's Second Motion to Compel is intended to serve as a request to compel AUSA Comstock to respond to the allegations of Plaintiff's Complaint, the Court finds that AUSA Comstock adequately responded to such allegations in his Motion to Dismiss, as discussed herein. For these reasons, Plaintiff's Second Motion to Compel, ECF No. 14, is **DENIED**.

IV. AUSA Comstock's Motion to Dismiss

A. Standards of Review under Federal Rules 12(b)(6) and 12(b)(5)

AUSA Comstock seeks dismissal of this action pursuant to Federal Rules 12(b)(6) and Rule 12(b)(5). A motion to dismiss under Federal Rule 12(b)(6) should be granted if a complaint fails to "allege facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A Rule 12(b)(6) motion "tests the sufficiency of a complaint and 'does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses.'" *Johnson v. Portfolio Recovery Assocs., LLC*, 682 F. Supp. 2d 560, 567 (E.D. Va. 2009) (quoting *Republican Party of N.C. v. Martin*, 980 F.2d 943, 952 (4th Cir. 1992)). As such, the Court must accept all factual allegations contained in Plaintiff's Complaint as true and draw all reasonable inferences in favor of Plaintiff. *Id.* "Although the truth of the facts alleged is assumed, courts are not bound by the 'legal conclusions drawn from the facts' and 'need not accept as true unwarranted inferences, unreasonable conclusions, or arguments.'" *Id.* (citations omitted). In ruling on a 12(b)(6) motion, the Court may properly take judicial notice of matters in the public record. *See Philips v. Pitt Cty. Mem. Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009).

Federal Rule 12(b)(5) provides for the dismissal of an action for insufficient service of process. Fed. R. Civ. P. 12(b)(5). "In resolving a motion under Rule 12(b)(5), the party making the service has the burden of demonstrating its validity when an objection to service is made." *United States v. Sea Bay Dev. Corp.*, No. 2:06cv624, 2007 U.S. Dist. LEXIS 33734,

at *5 (E.D. Va. May 8, 2007); *see MJL Enters., LLC v. Laurel Gardens, LLC*, No. 2:15cv100, 2015 U.S. Dist. LEXIS 144496, at *5–6 (E.D. Va. Oct. 23, 2015).

B. Discussion

In his Motion to Dismiss, AUSA Comstock argues, among other things, that this action is an improper attempt by Plaintiff “to nullify his criminal conviction” based on an alleged lack of jurisdiction. Mem. Supp. Mot. Dismiss at 9, ECF No. 6. Specifically, AUSA Comstock argues:

If Plaintiff wanted to challenge his underlying conviction[,] he had various remedies available to him: (1) plead not guilty in order to preserve various direct appeal rights; [or] (2) file a petition for writ of habeas corpus under 28 U.S.C § 2255. *See, e.g., United States v. Dawkins*, 443 F. App’x 848 (4th Cir. 2011) (“Although a defendant may seek to withdraw his guilty plea prior to sentencing, pursuant to Fed. R. Crim. P. 11(e), after the court imposes sentence, the defendant may not withdraw a plea of guilty, and the plea may be set aside only on direct appeal or collateral attack.”) (citations and quotations omitted); *United States v. Garcia*, 139 F.3d 894 (4th Cir. 1998) (noting that the avenue for a collateral attack is a habeas petition under 28 U.S.C.A. § 2255). He did not pursue either of these avenues and instead has filed the instant civil action against the prosecutor in his criminal case. Allowing this case to proceed would endorse an improper attack of and breach of Plaintiff’s plea agreement.

Id. at 9–10.

As this Court has explained, “[a] challenge to the legality of a federal prisoner’s sentence must be brought pursuant to 28 U.S.C. § 2255 in the sentencing court.” *Martinez v. Brooks*, No. 1:03cv1021, 2004 U.S. Dist. LEXIS 32472, at *5 (E.D. Va. July 26, 2004); *see Vandivere v. Stansberry*, No. 2:09cv37, 2009 U.S. Dist. LEXIS 130137, at *2–3 (E.D. Va. Feb. 6, 2009) (explaining that “§ 2255 is a federal prisoner’s exclusive remedy for collaterally attacking the imposition of his sentence, unless the remedy is ‘inadequate or ineffective’”); *Guerrero-Guerrero v. Clark*, 687 F. Supp. 1022, 1028 (E.D. Va. 1988) (explaining that “challenges to jurisdictional

defects must be brought in the sentencing court as challenges to the validity of the conviction" pursuant to § 2255). Section 2255(a) provides:

A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

28 U.S.C. § 2255(a).⁵

Although Plaintiff's Complaint is not a model of clarity, it is clear that Plaintiff, a federal inmate, seeks to challenge the legality of his criminal sentence on jurisdictional grounds. Compl. at 1–17, ECF No. 1. As explained above, such a challenge must be brought pursuant to 28 U.S.C. § 2255. Accordingly, the Court agrees that this action is an improper attempt "to nullify [Plaintiff's] criminal conviction." Mem. Supp. Mot. Dismiss at 9. For this reason,⁶ AUSA Comstock's Motion to Dismiss, ECF No. 5, is **GRANTED**.

V. Conclusion

For the reasons set forth above, Plaintiff's First Motion to Compel, ECF No. 12, is **DENIED**; Plaintiff's Second Motion to Compel, ECF No. 14, is **DENIED**; and AUSA Comstock's Motion to Dismiss, ECF No. 5, is **GRANTED**.

⁵ The Court notes that if a § 2255 motion is deemed to be "inadequate or ineffective," a court may "entertain a collateral attack on a federal prisoner's sentence or conviction" by means other than a § 2255, "such as a petition pursuant to § 2241." *Vandivere v. Stansberry*, No. 2:09cv37, 2009 U.S. Dist. LEXIS 130137, at *3 (E.D. Va. Feb. 6, 2009). Here, Plaintiff has not alleged facts to suggest that a § 2255 motion would be deemed "inadequate or ineffective" under the controlling law. *Id.* at *3–4 (explaining the elements necessary for a § 2255 motion to be deemed "inadequate or ineffective").

⁶ Because the Court finds that dismissal of this action is warranted on this basis, the Court does not reach the merits of AUSA Comstock's other arguments for dismissal.

Plaintiff may appeal this Dismissal Order by forwarding a written notice of appeal to the Clerk of the United States District Court, Norfolk Division, 600 Granby Street, Norfolk, Virginia 23510. The written notice must be received by the Clerk within sixty days from the date of the entry of this Dismissal Order. If Plaintiff wishes to proceed *in forma pauperis* on appeal, the application to proceed *in forma pauperis* shall be submitted to the Clerk of the United States District Court, Norfolk Division, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk is **DIRECTED** to send a copy of this Dismissal Order to Plaintiff and counsel for AUSA Comstock.

IT IS SO ORDERED.



Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia

March 10th, 2020

U.S. District Court
Eastern District of Virginia -

Notice of Electronic Filing

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Case Name: Brown v. Comstock
Case Number: 2:19-cv-00206-AWA-DEM
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Docket Text:
DISMISSAL ORDER: Plaintiff's First Motion to Compel, ECF No. 12, is DENIED; Plaintiff's Second Motion to Compel, ECF No. 14, is DENIED; and AUSA Comstock's Motion to Dismiss, ECF No. 5, is GRANTED. Copies of this Order sent as DIRECTED on 3.11.20. Signed by District Judge Arenda L. Wright Allen on 3/10/2020. (epri,)

2:19-cv-00206-AWA-DEM Notice has been electronically mailed to:

Garry D. Hartlieb garry.hartlieb@usdoj.gov, angeline.posey@usdoj.gov, CaseView. ECF@usdoj.gov, USAVAE.NOR. ECF.CIVIL@usdoj.gov

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EXHIBIT "B"

Judgement & Mandate Order from Fourth Circuit of Appeals.

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 20-1403

DARRELL WAYNE BROWN,

Plaintiff - Appellant,

v.

KEVIN MICHAEL COMSTOCK,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Arenda L. Wright Allen, District Judge. (2:19-cv-00206-AWA-DEM)

Submitted: July 21, 2020

Decided: July 23, 2020

Before AGEE, DIAZ, and HARRIS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Darrell Wayne Brown, Appellant Pro Se. Garry Daniel Hartlieb, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darrell Wayne Brown appeals the district court's order dismissing his civil action. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Brown v. Comstock*, No. 2:19-cv-00206-AWA-DEM (E.D. Va. Mar. 11, 2020). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED