**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 25-6494**

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DAMIAN JACKSON,

Plaintiff - Appellant,

v.

PATRICIA WEST, Chairman; LLOYD BANKS, Vice Chairman; MICHELLE DERMYER, Member; CHADWICK DOTSON, Chair - D.O.C.; SAMUEL L. BOONE, JR., Member Parole Board D.O.C.; HAROLD TAYLOR, Parole Interviewer D.O.C.; ANDREA GREEN; B. BULLOCK, Parolee's Supervisor; K. COSBY, Regional Abudsman,

Defendants - Appellees.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. M. Hannah Lauck, District Judge. (3:24-cv-00120-MHL-MRC)

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Submitted: November 20, 2025 Decided: November 25, 2025

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Before THACKER, HARRIS, and QUATTLEBAUM, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Damian Jackson, Appellant Pro Se.

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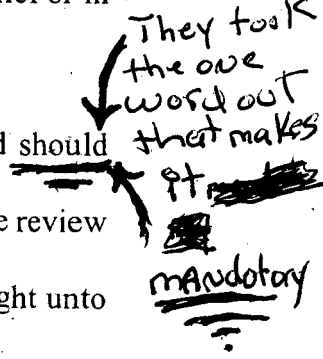
PER CURIAM:

Damian Jackson appeals the district court's orders granting Defendants' motion to dismiss, dismissing Jackson's 42 U.S.C. § 1983 complaint, and denying Jackson's Fed. R. Civ. P. 59(e) motion to alter or amend the judgment. We have reviewed the record and discern no reversible error in the district court's conclusion that Jackson's due process claim related to his entitlement to annual parole review failed to state a claim to relief or in the court's denial of his motions for the appointment of counsel.




While Va. Code Ann. § 53.1-154 provides that the Virginia Parole Board should review an inmate's eligibility for parole at least annually, the right to annual parole review "is a procedural function of Virginia's parole scheme rather than a substantive right unto itself"; thus, "the Constitution does not afford that 'right' any protection under the Due Process Clause." *Hill v. Jackson*, 64 F.3d 163, 171 (4th Cir. 1995). Further, in prior challenges to Virginia's parole scheme, we have held that "at most, parole authorities must furnish to the prisoner a statement of its reasons for denial of parole." *Burnette v. Fahey*, 687 F.3d 171, 181 (4th Cir. 2012) (citation modified). The Virginia Parole Board satisfied due process by sending Jackson two letters explaining why it denied him parole. Thus, there was no due process violation upon which Jackson could state a claim. Lastly, because there is no right to counsel in civil actions, we conclude that the district court did not err in denying his motions to appoint counsel. *See, e.g.*, *Wojcicki v. SCANA/SCE&G*, 947 F.3d 240, 242 (4th Cir. 2020).

Accordingly, we grant Jackson's motion to amend, construed as a motion to file a supplemental informal brief, and affirm the district court's orders. *Jackson v. West*, No.

3:24-cv-00120-MHL-MRC (E.D. Va. Mar. 6, 2025; May 13, 2025). 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*

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

**DAMIAN JACKSON,**

**Plaintiff,**

**v.** Civil Action No. **3:24cv120**

**PATRICIA WEST, *et al.*,**

**Defendants.**

**MEMORANDUM OPINION**

Damian Jackson, a Virginia inmate proceeding *pro se* and *in forma pauperis*, filed this 42 U.S.C. § 1983 action. Jackson contended that Defendants[1] violated his Fourteenth Amendment due process rights[2] when they failed to consider him for parole in 2022 and 2023. By Memorandum Opinion and Order entered on March 6, 2025, the Court dismissed without prejudice the claims against Defendants Green and Bullock because Jackson failed to effect timely service on them and dismissed the claims against the remaining Defendants because they failed to state a claim and were legally frivolous. (ECF Nos. 37, 38.)

On March 26, 2025, the Court received a Motion for Reconsideration (ECF No. 42) from Jackson. The Motion for Reconsideration will be construed as a motion filed pursuant to Federal Rule of Civil Procedure 59(e) ("Rule 59(e) Motion"). *See MLC Auto., LLC v. Town of S. Pines*,

[1] Defendants are Patricia West, the Chairman of the Virginia Parole Board ("VPB"); Lloyd Banks, the Vice Chairman of the VPB; Michelle Dermyer and Samuel Boone, Jr., members of the VPB; Harold Taylor, and interviewer; Chadwick Dotson, the Director of the Virginia Department of Corrections ("VDOC"); B. Bullock, a head counselor; Andrea Green, a grievance coordinator; and K. Cosby, the Regional Ombudsman. (ECF No. 10, at 3.)

[2] "No State shall . . . deprive any person of life, liberty, or property, without due process of law . . . ." U.S. Const. amend. XIV, § 1.

532 F.3d 269, 277–78 (4th Cir. 2008) (stating that filings made within twenty-eight days after the entry of judgment are construed as Rule 59(e) motions (citing *Dove v. CODESCO*, 569 F.2d 807, 809 (4th Cir. 1978))).

"[R]econsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly." *Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998) (citation omitted) (internal quotation marks omitted). The United States Court of Appeals for the Fourth Circuit has recognized three grounds for relief under Rule 59(e): "(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993) (citing *Weyerhaeuser Corp. v. Koppers Co.*, 771 F. Supp. 1406, 1419 (D. Md. 1991); *Atkins v. Marathon LeTourneau Co.*, 130 F.R.D. 625, 626 (S.D. Miss. 1990)).

Although Jackson does not address any specific ground for relief under Rule 59(e), it appears that he believes the Court should reconsider its decision to correct a clear error of law or prevent manifest injustice. First, Jackson argues: "The courts ruled that I did not state a claim. The court is in error, I have a letter from Mr. Switzer stating my claim." (ECF No. 42, at 4.)[3] Jackson apparently misunderstands the Court's reason for dismissal. The Court agrees that Jackson identified, or stated, his allegations against the Defendants in his Particularized Complaint. Jackson's cumulative claim was that Defendants violated his due process rights when they failed to consider him for parole for the years 2022 and 2023. (*See* ECF No. 37, at 4–5.) The Court then addressed Jackson's allegations, and the due process claim, in the March 6, 2025 Memorandum Order and determined that "the due process claim will be DISMISSED for

[3] The Court employs the pagination assigned by the CM/ECF docketing system. The Court corrects the capitalization, spelling, and punctuation in the quotations from the Rule 59(e) Motion.

failure to state a claim and as legally frivolous." (ECF No. 37, at 12.) The Court's use of the phrase, "failure to state a claim," means that Jackson's due process claim as alleged, failed to adequately plead that Defendants violated the Constitution or other federal laws. Jackson identifies no clear error of law in the Court's conclusion.[4]

Second, Jackson argues that the Court misunderstood Va. Code Ann. § 53.1-154 and that "[t]he only way you can give a person a deferral is if said person has more than 10 years or if they notify said person. I have 5 years left, at the time this occurred I had 8 years left on my sentence . . . so that rule doesn't apply to me." (ECF No. 42, at 4.) From the parties' submissions, it was unclear whether the exception in Va. Code § 53.1-154 applied to Jackson. (*See* ECF No. 37, at 11 n.8.) The Court explained that even if the exception in the statute was not applicable, "that does not alter the Court's conclusion that Jackson lacked a cognizable due process right to be considered for parole annually." (*See* ECF No. 37, 11 n.8.) The Court explained that even if the Virginia Parole Board forgot to consider him for parole for two years, any error was based on a state procedural rule, and the "state's failure to abide by that law is not a federal due process issue." (ECF No. 37, at 12 (citations omitted).) The Court concluded that "Jackson should have sought to enforce this procedural right in the Virginia courts, under Virginia law," and that "Jackson has received all of the process the Constitution requires." (ECF No. 37, at 12 (citations omitted).) Jackson fails to identify any clear error of law in the Court's conclusion that his due process claim failed to state a claim and was legally frivolous.

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[4] Jackson suggests that the Defendants all knew through letters and grievances that he had not been considered for parole and that "all said associates assisted or ignored their duties[,] which is the conspiracy 18.2-2." (ECF No. 42, at 4.) The Court did not conclude that Defendants were unaware that Jackson was not considered for parole for two years. Whether Defendants purportedly ignored his requests is irrelevant because Jackson had no protected liberty interest in being considered for parole annually.

Finally, Jackson argues that Defendants "did not produce any evidence, all they did was quote case law in a procedure and policy case." (ECF No. 42, at 7.) Defendants filed a Motion to Dismiss Jackson's Particularized Complaint under Federal Rule of Civil Procedure 12(b)(6). As the Court explained, "[a] motion to dismiss under Rule 12(b)(6) tests the sufficiency of the complaint, it does not resolve contests surrounding the facts . . . ." (ECF No. 37, at 4.) Defendants were not required to produce any evidence with their Motion to Dismiss, nor could the Court consider any evidence in assessing the propriety of the Particularized Complaint under Federal Rule of Civil Procedure 12(b)(6). Again, Jackson identifies no clear error of law in the Court's opinion.[5]

In sum, Jackson fails to demonstrate any clear errors of law in the conclusions of the Court or that the dismissal of this action resulted in manifest injustice. Thus, Jackson offers no persuasive reason why Rule 59(e) relief is appropriate. Accordingly, the Rule 59(e) Motion (ECF No. 42) will be DENIED.

An appropriate Order shall accompany this Memorandum Opinion.

Date: 05/13/2025
Richmond, Virginia

/s/
M. Hannah Lauck
United States District Judge

[5] Although he provides no argument in support of this ground, at the beginning of his Rule 59(e) Motion, Jackson indicates "[t]he courts denied me counsel." (ECF No. 42, at 1.) Jackson's case presented no complex issues or exceptional circumstances, *see Fowler v. Lee*, 18 F. App'x 164, 166 (4th Cir. 2001), and his pleadings established that he was competent to represent himself. Therefore, Jackson fails to demonstrate any clear errors of law in the conclusions of the Court or that the dismissal of this action resulted in manifest injustice.

FILED: February 13, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 25-6494
(3:24-cv-00120-MHL-MRC)

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DAMIAN JACKSON

Plaintiff - Appellant

v.

PATRICIA WEST, Chairman; LLOYD BANKS, Vice Chairman; MICHELLE DERMYER, Member; JOSEPH WALTERS, Chair - D.O.C.; SAMUEL L. BOONE, JR., Member Parole Board D.O.C.; HAROLD TAYLOR, Parole Interviewer D.O.C.; ANDREA GREEN; B. BULLOCK, Parolee's Supervisor; K. COSBY, Regional Abudsman

Defendants - Appellees

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ORDER

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The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 40 on the petition for rehearing en banc.

The court denies the motion to appoint counsel.

Entered at the direction of the panel: Judge Thacker, Judge Harris, and Judge Quattlebaum.

For the Court

/s/ Nwamaka Anowi, Clerk

Code of Virginia
Title 53.1. Prisons and Other Methods of Correction
Chapter 4. Probation and Parole

## § 53.1-154. Times at which Virginia Parole Board to review cases.

The Virginia Parole Board shall by regulation divide each calendar year into such equal parts as it may deem appropriate to the efficient administration of the parole system. Unless there be reasonable cause for extension of the time within which to review and decide a case, the Board shall review and decide the case of each prisoner no later than that part of the calendar year in which he becomes eligible for parole, and at least annually thereafter, until he is released on parole or discharged, except that upon any such review the Board may schedule the next review as much as three years thereafter, provided there are ten years or more or life imprisonment remaining on the sentence in such case. Such reviews shall include a live interview of the prisoner by a Board member or a staff member designated by the Board. Such interviews may be conducted in person or by videoconference or telephone at the discretion of the Board. Absent imminent death of the prisoner or other extraordinary circumstances, which shall be documented by the Board in the prisoner's file, the Board shall not grant parole to any prisoner who has not received a live interview within the prior calendar year. Notwithstanding any other provision of this article, in the case of a parole revocation, if such person is otherwise eligible for parole, the Board shall review and decide his case no later than that part of the calendar year one year subsequent to the part of the calendar year in which he was returned to a facility as provided in § 53.1-161. Thereafter, his case shall be reviewed as specified in this section. The Board, in addition, may review the case of any prisoner eligible for parole at any other time and may review the case of any prisoner prior to that part of the year otherwise specified. In the discretion of the Board, interviews may be conducted by the Board or its representatives and may be either public or private.

Code 1950, §§ 53-252, 53-254; 1966, c. 638; 1970, c. 648; 1977, c. 34; 1982, c. 636; 1984, c. 655; 2023, cc. 805, 806.