

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-6810

AMEEN ABDULLAH MUHAMMAD, a/k/a Ex-rel Ameen Abdullah Muhammad,
a/k/a Ameen Abdullah Muhammad-Bey,

Plaintiff - Appellant,

v.

JOHN KOZELSKI, Public Defender; JULIE J. ARMSTRONG, Clerk of Court; AL-
CANNON DETENTION CENTER, Charleston County Sheriff Department;
COASTAL CAROLINA OCCUPATIONAL HEALTH, Medical Staff,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Aiken.
Donald C. Coggins, Jr., District Judge. (1:19-cv-00312-DCC)

Submitted: August 20, 2019

Decided: August 23, 2019

Before FLOYD and RUSHING, Circuit Judges, and SHEDD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Ameen Abdullah Muhammad, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

Appendix A

PER CURIAM:

Ameen Abdullah Muhammad appeals the district court's order dismissing without prejudice his 42 U.S.C. § 1983 (2012) complaint for failure to prosecute. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2012). The magistrate judge recommended that the action be dismissed and advised Muhammad that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation.

The timely filing of specific objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned of the consequences of noncompliance. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985); *see also Thomas v. Arn*, 474 U.S. 140 (1985). Muhammad has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we affirm the judgment of the district court.

We deny Muhammad's motion for appointment of counsel. 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

FILED: October 1, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-6810
(1:19-cv-00312-DCC)

AMEEN ABDULLAH MUHAMMAD, a/k/a Ex-rel Ameen Abdullah
Muhammad, a/k/a Ameen Abdullah Muhammad-Bey

Plaintiff - Appellant

v..

JOHN KOZELSKI, Public Defender; JULIE J. ARMSTRONG, Clerk of Court;
AL-CANNON DETENTION CENTER, Charleston County Sheriff Department;
COASTAL CAROLINA OCCUPATIONAL HEALTH, Medical Staff

Defendants - Appellees

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge
requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Floyd, Judge Rushing, and Senior

Judge Shedd.

For the Court

/s/ Patricia S. Connor, Clerk

Appendix A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Ameen Abdullah Muhammed,) C/A No.: 1:19-312-DCC-SVH
)
 #1337028,)
)
 Plaintiff,)
)
)
 vs.)
)
 John Kozelski, Public Defender;) ORDER
 Julie J. Armstrong, Clerk of Court;)
 Al-Cannon Detention Center,)
 Charleston County Sheriff)
 Department; and Coastal Carolina)
 Occupational Health, Medical)
 Staff,)
 Defendants.)

This is a civil action filed by a local prisoner. Therefore, in the event that a limitations issue arises, Plaintiff shall have the benefit of the holding in *Houston v. Lack*, 487 U.S. 266 (1988) (holding that a prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to District Court). Under Local Civ. Rule 73.02(B)(2)(d) (D.S.C.), pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

TO PLAINTIFF:

Plaintiff failed to provide sufficient information for initial review. Therefore, this case is not in proper form for service at this time. If Plaintiff does not bring this case into proper form within the time permitted by this order, this case may be dismissed for failure to prosecute and failure to comply with an order of this court under Rule 41 of the Fed. R. Civ. P.

The undersigned directs Plaintiff to do the following within 21 days from the date this order is entered (plus three mailing days):

Appendix B

- 1) Pay the \$350 filing fee or complete and sign the enclosed Application to Proceed Without Prepayment of Fees and Affidavit (Form AO 240).
- 2) Complete and sign the enclosed Financial Certificate if Plaintiff files a Form AO 240 requesting to proceed without prepayment of the filing fee. The Financial Certificate must be completed and signed by the appropriate officer having authority to review and calculate financial information in relation to Plaintiff's inmate trust account. After Plaintiff sends the Financial Certificate to the appropriate officer and receives it back with the required information, including the appropriate officer's signature, Plaintiff must return the Financial Certificate to the Clerk of Court.
- 3) Fully complete one summons form which lists every defendant named in this matter. In the space following "TO: (Defendant's name and address)," Plaintiff is required to provide a complete name and a full address where each defendant can be served pursuant to Fed. R. Civ. P. 4. Plaintiff's complete name and full address must be provided in the blank section following "plaintiff or plaintiff's attorney, whose name and address are." Handwritten information must be printed and legible. Nothing else should be written by Plaintiff on either the front or back of the summons or in the margins. If it is necessary to list additional defendants whose names and street addresses do not fit in the space on the summons form preceded by "TO: (Name and address of Defendant)," Plaintiff must attach an additional page of letter-sized (eight and one-half inches by eleven inches) paper listing additional defendants and service addresses. Blank forms are attached for Plaintiff's use.
- 4) Fully complete, sign, and return a Form USM-285 for defendants named in this case. Only one defendant's name and street address should appear on each form. Defendant's name and street address should be placed in the spaces preceded by the words, "SERVE AT." Plaintiff's name and address should be placed in the space designated, "SEND NOTICE OF SERVICE COPY TO . . .," and Plaintiff should

sign where the form requests, "Signature of Attorney or other Originator . . ." Plaintiff must provide defendant's complete street address on the form (not a post office box address). Plaintiff must provide, and is responsible for, information sufficient to identify defendants on the Forms USM-285. The United States Marshal cannot serve an inadequately-identified defendant, and unserved defendants may be dismissed as parties to this case. Blank forms are attached for Plaintiff's use.

No process shall issue until the items specified above have been reviewed by the assigned Magistrate Judge.

Plaintiff must place the civil action number (C/A No.: 1:19-312-DCC-SVH) on any document provided to the court pursuant to this order. Any future filings in this case must be sent to United States District Court, 901 Richland Street, Columbia, South Carolina 29201.

All documents requiring Plaintiff's signature shall be signed with Plaintiff's full legal name written in Plaintiff's own handwriting. Pro se litigants shall not use the "s/typed name" format used in the Electronic Case Filing System. In all future filings with this court, Plaintiff is directed to use letter-sized (eight and one-half inches by eleven inches) paper only, to write or type text on one side of a sheet of paper only, and not to write or type on both sides of any sheet of paper. Plaintiff is further instructed not to write to the edge of the paper, but to maintain one inch margins on the top, bottom, and sides of each paper submitted.

Plaintiff is a pro se litigant. Plaintiff's attention is directed to the following important notice:

You are ordered to always keep the Clerk of Court advised in writing (United States District Court, 901 Richland Street, Columbia, South Carolina 29201) if your address changes for any reason, so as to assure that orders or other matters that specify deadlines for you to meet will be received by you. If as a result of your failure to comply with this order, you fail to meet a deadline set by this court, your case may be dismissed for violating this order. Therefore, if you have a change of address before this case is ended, you must comply with this order by immediately advising the Clerk of Court in writing of such change of address

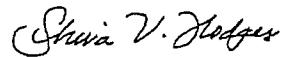
and providing the court with the docket number of all pending cases you have filed with this court. Your failure to do so will not be excused by the court.

TO THE CLERK OF COURT:

The Clerk shall mail a copy of this order and the proper form documents to Plaintiff. If Plaintiff fails to provide the items specified above to the Clerk of Court within the period prescribed in this order, the Clerk of Court shall forward the file to the assigned United States District Judge to determine whether to enter an order of dismissal. If, however, Plaintiff provides this court with the items specified above, the Clerk of Court should forward the file to the assigned Magistrate Judge to determine if service of process should be authorized.

The Clerk of Court shall not enter any change of address submitted by Plaintiff which directs that mail be sent to a person other than Plaintiff unless that person is an attorney admitted to practice before this court who has entered a formal appearance.

IT IS SO ORDERED.



February 5, 2019
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge

Plaintiff's attention is directed to the important WARNING on the following page.