

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7176
(6:19-cv-00750-DCN)

KEVIN HERRIOTT

Plaintiff - Appellant

v.

PARRISH, Major in Individual and Official Capacity; DUNN, Officer in Individual and Official Capacity; MALNADO, Officer in Individual and Official Capacity; NFN MATA, Officer in Individual and Official Capacity; NFN LEVELS, Sergeant in Individual and Official Capacity; NFN VELA, Lieutenant in Individual and Official Capacity; NFN COXUM, Individual and Official Capacity

Defendants - Appellees

and

MICHAEL STEPHEN, Warden for Broad River in individual and official capacity; JOHN DOE 1, In individual and official capacity; NFN CARTER, Captain in Individual and Official Capacity; NFN WILL, Lieutenant in Individual and Official Capacity; NFN MITCHELL, Mailroom Official in his Individual and Official Capacity; NFN WASHINGTON, Associate Warden in Individual and Official Capacity; NFN ROBINSON, Sergeant in Individual and Official Capacity; NFN CAMPBELL, Officer in Individual and Official Capacity; JOHN DOE 2, Individual and Official Capacity

Defendants

ORDER

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 Diaz, Judge Quattlebaum, and Senior Judge Shedd.

For the Court

/s/ Patricia S. Connor, Clerk

UNPUBLISHED

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Defendants.

Appeal from the United States District Court for the District of South Carolina, at Greenville. David C. Norton, District Judge. (6:19-cv-00750-DCN)

Submitted: June 14, 2021

Decided: August 30, 2021

Before DIAZ and QUATTLEBAUM, Circuit Judges, and SHEDD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Kevin Herriott, Appellant Pro Se. Andrew Lindemann, LINDEMANN & DAVIS, P.A., Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kevin Herriott appeals the district court's order denying relief on his 42 U.S.C. § 1983 complaint. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B). The magistrate judge recommended dismissing Herriott's claims for mail tampering, denial of access to the courts, seizure of legal materials, and denial of recreation under 28 U.S.C. § 1915A(b). The magistrate judge further recommended that claims for excessive force and deliberate indifference be allowed to proceed to discovery. Conducting a *de novo* review of the dismissed claims, the district court adopted the magistrate judge's recommendation, and we affirm for the reasons stated by the district court. *Herriott v. Stephen*, No. 6:19-cv-00750-DCN (D.S.C. June 24, 2019).

Following discovery on the remaining claims, the magistrate judge recommended granting Defendants' motion for summary judgment. The district court accepted that recommendation and granted summary judgment to Defendants. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Herriott v. Stephen*, No. 6:19-cv-00750-DCN (D.S.C. filed July 14, 2020 & entered July 15, 2020). We deny Herriott's motions for a preliminary injunction and a physical examination.

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