

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-2138

ANTHONY WONG,

Plaintiff - Appellant,

v.

HONORABLE CHRISTINE WORMUTH, Secretary, Department of the Army;
DARRYL W. MCCOY, Director, US Army Garrison, Italy Finance Office; MARK
JACKSON, Director, US Army Garrison, Italy Finance Office,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at
Alexandria. Rossie David Alston, Jr., District Judge. (1:23-cv-00485-RDA-LRV)

Submitted: March 28, 2024

Decided: April 1, 2024

Before KING and RUSHING, Circuit Judges, and MOTZ, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Anthony Wong, Appellant Pro Se. Hugham Chan, OFFICE OF THE UNITED STATES
ATTORNEY, Alexandria, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Anthony Wong appeals the district court's order denying Wong's "Motion to Reopen Case" and "Request to Upload Settlement Agreement and Release to CM/ECF." We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *Wong v. Wormuth*, No. 1:23-cv-00485-RDA-LRV (E.D. Va. filed Oct. 4, 2023 & entered Oct. 5, 2023). We deny Wong's motions to impose sanctions and for the 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

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ANTHONY WONG,

Plaintiff,

v.

HONORABLE CHRISTINE WORMUTH

et al.,

Defendant.

Civil Action No. 1:23-cv-485 (RDA/LRV)

ORDER

This matter comes before the Court on Plaintiff's *pro se* Motion to Reopen the Case, Dkt. 69, and Plaintiff's Request to Upload Settlement Agreement and Release to CM/ECF, Dkt. 67. On June 7, 2023, the Court dismissed this case with prejudice following a settlement between the parties. Dkt. 65. Plaintiff asserts that the case should be reopened so that he can obtain contact information for two individual defendants and their supervisors, because he wants to directly communicate the terms of the settlement with them. Dkt. 69 at 2. Plaintiff is also requesting the terms of the settlement be uploaded to the CM/ECF system. Dkt. 67 at 1.

Rule 60(b)(6) of the Federal Rules of Civil Procedure permit a district court to reopen a case for any "reason that justifies relief from a judgment or order." Fed. R. Civ. P. 60(b)(6). The Fourth Circuit has explained that:

[a] remedy under Rule 60(b) "is extraordinary and is only to be invoked upon a showing of exceptional circumstances." Moreover, a decision not to reinstate a settled case under Rule 60(b) has been described as "discretion piled on discretion." Therefore, a district court's decision not to reinstate should stand absent "substantial danger that dismissal of plaintiff's claims was fundamentally unjust.

Zahariev v. Hartford Life & Accident Ins. Co., 2023 WL 1519520, at *2 (4th Cir. Feb. 10, 2023) (internal citations omitted). Here, Plaintiff's inability to contact certain individual defendants does not present any extraordinary circumstances or render dismissal fundamentally unjust such that the case should be reopened. *Id.* Thus, the Court will deny Plaintiff's motion to reopen the case.

Regarding Plaintiff's request to upload the settlement agreement, many courts have held that when a settlement is reached without court action, "there will rarely be a good reason to require that its terms be made public, because making them public would not reveal anything about judicial activity." *Goesel v. Boley Int'l (H.K.) Ltd.*, 738 F.3d 831, 834 (7th Cir. 2013); *see also LEAP Systems, Inc. v. MoneyTrax, Inc.*, 638 F.3d 216, 220 (3d. Cir. 2011) ("settlement agreements reached without court assistance or intervention will not be treated as 'judicial records' for purposes of the 'right of access' doctrine"); *K.S. v. Ambassador Programs Inc.*, No. 1:10CV439, 2010 WL 3565481, at *4 (E.D. Va. Sept. 3, 2010) ("Settlement agreements, of course, do not generally become part of the public record because they do not ordinarily require judicial consideration or approval."). "Confidentiality is necessary in settlement discussions and agreements to encourage candor and participation in the negotiations by all parties." *Saunders v. Champ Sports, Inc.*, No. CIV.A. 2:07-CV-00655, 2008 WL 5142393, at *1 (S.D.W. Va. Dec. 8, 2008) (citing *Sears, Roebuck & Co. v. EEOC*, 581 F.2d 941, 948 (D.C.Cir.1978)).

Thus, overall, settlement terms are only of potential public interest when "they become an issue in a subsequent lawsuit, or the settlement is sought to be enforced." *Goesel*, 738 F.3d 831, 834. Here, the parties reached an agreement without court action, the agreement is not currently an issue in any subsequent litigation nor is any party seeking to enforce the settlement agreement. Further, there are no conditions in the settlement agreement that require it be uploaded to the docket. Therefore, the agreement at issue shall be subject to the confidentiality that is typically

afforded to settlement agreements, and the Court will deny Plaintiff's Request to Upload the Settlement Agreement to CM/ECF.

Accordingly, Plaintiff's Motion to Reopen the Case (Dkt. 69) is DENIED; and it is


FURTHER ORDERED that Plaintiff's Request to Upload the Settlement Agreement to CM/ECF (Dkt. 67) is DENIED.

To appeal this decision, Plaintiff must file a written notice of appeal with the Clerk of Court within 30 days of the date of entry of this Order. A notice of appeal is a short statement indicating a desire to appeal, including the date of the order Plaintiff wants to appeal. Plaintiff need not explain the grounds for appeal until so directed by the court of appeals. Failure to file a timely notice of appeal waives Plaintiff's right to appeal this decision.

The Clerk is directed to forward copies of this Order to Plaintiff, who is proceeding *pro se*, and to counsel of record for Defendants.

IT IS SO ORDERED.

Alexandria, Virginia
October 4, 2023

/s/ 

Rossie D. Alston, Jr.
United States District Judge

FILED: June 6, 2024

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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 King, Judge Rushing, and Senior Judge Motz.

For the Court

/s/ Nwamaka Anowi, Clerk

FILED: June 14, 2024

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M A N D A T E

The judgment of this court, entered April 1, 2024, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

/s/Nwamaka Anowi, Clerk

Appendix C

**Additional material
from this filing is
available in the
Clerk's Office.**