

FRITH ANDERSON + PEAKE PC

EXHIBIT 1

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December 20, 2023

Via U.S Mail

Joseph A. Daniels
1044277
VDOC Centralized Mail Dist. Cntr.
3521 Woods Way
State Farm VA 23160

Re: **Joseph Daniels v. Vincent Gore, M.D., et al.**
Case No: 3:22-cv-00760-HEH-MRC

Dear Mr. Daniels:

Please see the enclosed that were recently filed on December 18, 2023, in the above referenced matter on behalf of Defendant Vincent Gore, M.D.

Sincerely,

Ericka W. Kopp

EWK/lrm
Enclosures

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APPENDIX A

FILED: April 11, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-6710
(3:22-cv-00760-HEH-MRC)

JOSEPH ANTHONY DANIELS

Plaintiff - Appellant

v.

VINCENT GORE, Medical Doctor

Defendant - Appellee

O R D E R

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 40. The court denies the petition for rehearing en banc.

For the Court

/s/ Nwamaka Anowi, Clerk

UNPUBLISHED**UNITED STATES COURT OF APPEALS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

No. 24-6710

JOSEPH ANTHONY DANIELS,

Plaintiff - Appellant,

v.

VINCENT GORE, Medical Doctor,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Henry E. Hudson, Senior District Judge. (3:22-cv-00760-HEH-MRC)

Submitted: January 23, 2025

Decided: January 28, 2025

Before WILKINSON, WYNN, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Joseph Anthony Daniels, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joseph Anthony Daniels, a state prisoner, appeals the district court's orders granting summary judgment to Defendant Vincent Gore and denying reconsideration. Daniels claimed that Gore, a prison doctor, was deliberately indifferent to his serious medical needs. On appeal, Daniels contends that Gore's summary judgment motion was untimely and filed by an attorney who was not counsel of record, argues that Gore violated Fed. R. Civ. P. 26(a), and reiterates his deliberate indifference claim.

We have reviewed the record and find no reversible error. Initially, the record plainly reflects that Gore's attorney of record obtained an extension of the filing deadline and filed the motion for summary judgment within that period. And although Daniels argues that Gore violated Fed. R. Civ. P. 26(a) by not providing the evidence submitted with his summary judgment motion as part of an initial discovery disclosure, we conclude that Rule 26(a) was inapplicable because the district court granted summary judgment without discovery and in an action brought by an inmate proceeding pro se. *See Shaw v. Foreman*, 59 F.4th 121, 128 (4th Cir. 2023) (discussing pre-discovery summary judgment); Fed. R. Civ. P. 26(a)(1)(B)(iv) (exempting from initial disclosures actions brought by inmates proceeding pro se).

Finally, we conclude that the district court did not err by finding that the submitted evidence showed that Gore was not deliberately indifferent to Daniels's serious medical needs. *See Gordon v. Schilling*, 937 F.3d 348, 356-57 (4th Cir. 2019) (stating standard of review and discussing proof required to prevail on deliberate indifference claim). Therefore, we deny Daniels's motion to appoint counsel, and we affirm the district court's

orders. *Daniels v. Gore*, No. 3:22-cv-00760-HEH-MRC (E.D. Va. June 17, 2024; July 22, 2024). 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**

JOSEPH A. DANIELS,)
Plaintiff,)
v.) Civil Action No. 3:22-cv-760-HEH
VINCENT GORE, M.D.,)
Defendant.)

MEMORANDUM OPINION
(Denying Rule 59(e) Motion)

THIS MATTER is before the Court on Plaintiff Joseph A. Daniels' ("Daniels") *pro se* Motion to Object to Judge's Final Order Pursuant to Federal Rules of Civil Procedure Rule 46 and 52 (ECF No. 57),¹ filed on July 1, 2024. By Memorandum Opinion (ECF No. 53) and Order (ECF No. 54) entered on June 17, 2024, the Court granted the Motion for Summary Judgment (ECF No. 42) filed by Defendant Vincent Gore, M.D. ("Dr. Gore") and dismissed this action. Because Daniels' submission was received within twenty-eight (28) days after the entry of the June 17, 2024 Memorandum Opinion and Order, the Court will construe this submission as a motion filed pursuant to Federal Rule of Civil Procedure 59(e) (the "Rule 59(e) Motion"). *See MLC Auto., LLC v. Town of S. Pines*, 532 F.3d 269, 277–78 (4th Cir. 2008) (holding that a filing made within

¹ The Court employs the pagination assigned by the CM/ECF docketing system. The Court corrects the capitalization and punctuation in the quotations from Daniels' submission.

the requisite Rule 59(e) timeframe shall be construed as a Rule 59(e) motion (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) (internal quotations and citation omitted). The Fourth Circuit has recognized three (3) 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)). Daniels does not explicitly address any of the above recognized grounds for relief in his Rule 59(e) Motion. However, the Court construes the Rule 59(e) Motion as a request for reconsideration “to correct a clear error of law or prevent manifest injustice.” *Id.*

Daniels “objects to the Court’s action to dismiss his action based upon the fact that the Judge relied on an unauthorized filing by Erika W. Kopp, Esq., who failed to make an appearance with the Court before taking action on Dr. Gore’s behalf, in violation of Local Rule 83.1 of the Federal Rules of Civil Procedure.” (Rule 59(e) Mot. ¶ 7.)² Daniels also suggests that he demanded a jury trial and, by dismissing his case, he has been denied his day in court. (*Id.* ¶ 8.) Daniels fails to demonstrate that the Court committed a clear

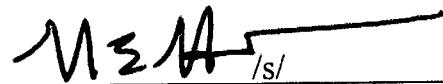
² The Motion for Summary Judgment that the Court granted was filed by Grace Morse-McNelis, Esquire, who is counsel of record for Dr. Gore. (See *id.* at 1.)

error of law or that relief under Rule 59(e) is necessary to prevent a manifest injustice.

Therefore, Daniels fails to show that he is entitled to relief under Rule 59(c).

Accordingly, the Rule 59(e) Motion (ECF No. 57) will be denied. A certificate of appealability will be denied.

An appropriate Final Order shall accompany this Memorandum Opinion.



/s/
Henry E. Hudson

Senior United States District Court

Date: July 22, 2024
Richmond, Virginia

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

APPENDIX B

JOSEPH A. DANIELS,)
Plaintiff,)
v.)
VINCENT GORE, M.D.,)
Defendant.)
Civil Action No. 3:22-cv-760-HEH

ORDER
(Granting Defendant's Motion for Summary Judgment)

In accordance with the accompanying Memorandum Opinion, it is hereby
ORDERED that:

1. The Motion for Summary Judgment (ECF No. 42) is GRANTED;
2. Claim One is DISMISSED WITH PREJUDICE and Claim Two is DISMISSED WITHOUT PREJUDICE;
3. The Clerk is DIRECTED to enter a final appealable Judgment in a Civil Case in favor of Defendant as a separate entry on the docket; and
4. Plaintiff does not request, and the Court does not grant, leave to amend, rendering this order final and appealable. *See Britt v. DeJoy*, 45 F.4th 790, 796 (4th Cir. 2022) (holding that an order dismissing a case without leave to amend is final and appealable).

Should Daniels desire to appeal, a written notice of appeal must be filed with the Clerk of the Court within thirty (30) days of the date of entry hereof. Failure to file a notice of appeal within that period may result in the loss of the right to appeal.

The Clerk is DIRECTED to send the Memorandum Opinion and Order personally to Daniels and to all counsel of record.

It is so ORDERED.


/s/

Henry E. Hudson
Senior United States District Judge

Date: June 17, 2024
Richmond, Virginia