

APPENDIX A

UNPUBLISHED

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

No. 17-2118

TESSA CHILDRESS, a/k/a Tessa Rani Raybourne Gibson Carlisle Childress,
filed as Tessa Rani Raybourne Gibson Carlisle Childress,

Plaintiff - Appellant,

v.

CITY OF CHARLESTON POLICE DEPARTMENT; LIEUTENANT CHITO T.
WALKER; OFFICER SANDERS; OFFICER KOEGLER; SERGEANT
RATLIFF; D-O FNU WILSON; D-O FNU DALLAS; D-O FNU GANT,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at
Charleston. David C. Norton, District Judge. (2:13-cv-01225-DCN)

Submitted: December 19, 2017

Decided: December 21, 2017

Before SHEDD, AGEE, and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Tessa Childress, Appellant Pro Se. Christopher Thomas Dorsel, Sandra J. Senn, SENN
LEGAL, LLC, Charleston, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tessa Childress appeals the district court's order dismissing her 42 U.S.C. § 1983 (2012) civil rights action pursuant to the terms of a settlement agreement. Childress argues on appeal that the district court's judgment should be reversed in light of ineffective assistance from her court-appointed counsel. The Sixth Amendment's guarantee of effective assistance of counsel, however, does not apply to civil actions. *Turner v. Rogers*, 564 U.S. 431, 441 (2011). Childress' remedy for any inadequate representation by counsel lies in a malpractice action against counsel, not a reversal of the district court's judgment. *Taylor v. Dickel*, 293 F.3d 427, 431 (8th Cir. 2002); *Stanciel v. Gramley*, 267 F.3d 575, 581 (7th Cir. 2001); *Sanchez v. U.S. Postal Serv.*, 785 F.2d 1236, 1237 (5th Cir. 1986) (per curiam). Additionally, insofar as Childress contends she was coerced or compelled by the district court and a Defendant into accepting the settlement agreement, she points to nothing in the record supporting this contention, and we find nothing in the record to support it. Childress fails to establish reversible error by the district court, and we therefore affirm its dismissal order. *Childress v. City of Charleston Police Dep't*, No. 2:13-cv-01225-DCN (D.S.C. Sept. 22, 2017). We deny Childress' self-styled "Motion for Rule 11 Making False Statements" and 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

APPENDIX B

FILED: February 12, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-2118
(2:13-cv-01225-DCN)

TESSA CHILDRESS, a/k/a Tessa Rani Raybourne Gibson Carlisle Childress,
filed as Tessa Rani Raybourne Gibson Carlisle Childress,

Plaintiff - Appellant,

v.

CITY OF CHARLESTON POLICE DEPARTMENT; LIEUTENANT CHITO T.
WALKER; OFFICER SANDERS; OFFICER KOEGLER; SERGEANT RATLIFF; D-O
FNU WILSON; D-O FNU DALLAS; D-O FNU GANT,

Defendants - Appellees.

ORDER

Appellees move for damages and costs pursuant to Fed. R. App. P. 38. Under Rule 38, this court may sanction an appellant for the filing of a frivolous appeal. An award of sanctions is discretionary, and we ordinarily reserve sanctions for appeals involving either multiple prior frivolous filings or malicious intent. *See, e.g., Dyntel Corp. v. Ebner*, 120 F.3d 488, 493 (4th Cir. 1997); *Foley v. Fix*, 106 F.3d 556, 558 (4th Cir. 1997) (per curiam). Because Childress does not have a history of prior frivolous filings in this court, and because there has been no showing of malicious intent, we deny

the motion for damages and costs. We also deny Childress' "Motion for Protection from Vexatious Litigation by Defense Counsel and all Defendants" and motion to appoint counsel.

Entered at the direction of the panel: Judge Agee, Judge Diaz, and Senior Judge Shedd.

For the Court

/s/ Patricia S. Connor, Clerk

APPENDIX C

AO 458 (Rev. 06/09) Appearance of Counsel

UNITED STATES DISTRICT COURT

for the

District of South Carolina

Tessa R R G C Childress

Plaintiff

v.

City of Charleston Police Department, et al.

Defendant

)
)
) Case No. 2:13-cv-01225-DCN
)
)

APPEARANCE OF COUNSEL

To: The clerk of court and all parties of record

I am admitted or otherwise authorized to practice in this court, and I appear in this case as counsel for:

Tessa R R G C Childress

Date: 09/13/2017

/s/ Jennifer H. Thiem

Attorney's signature

Jennifer H. Thiem - Fed ID No. 9797

Printed name and bar number

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APPENDIX D

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
OFFICE OF THE CLERK**

1100 East Main Street, Suite 501
Richmond, Virginia 23219-3517
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Patricia S. Connor
Clerk

Telephone
804-916-2700

October 13, 2017

Tessa Childress
P. O. Box 80171
Charleston, SC 29416

No. 17-2118, Tessa Childress v. City of Charleston Police Dept
2:13-cv-01225-DCN

Dear Ms. Childress:

We are in receipt of your motions to proceed pro se and *in forma pauperis*. Please be advised that you are currently proceeding pro se and have permission by this court to proceed *in forma pauperis* on appeal because the district court granted *in forma pauperis* which carries over on appeal. The court will not take any action on these motions as they are deemed moot.

The attorneys listed on our docket were added when the appeal was opened since they represented you in the district court. They have not made an appearance on your behalf on appeal and will be stricken from the docket.

Sincerely,

/s/ Donna Lett
Deputy Clerk

APPENDIX E

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Tessa Rani Raybourne Gibson Carlisle) C.A. No. 2:13-cv-1225 DCN
Childress,)
)
Plaintiff,)
)
)
vs.) **ORDER**
)
City of Charleston Police Department;)
Lieutenant Chito T. Walker; Officer)
Sanders; Officer Koegler; Sargent Ratliff;)
D-O FNI Wilson; D-O FNU Dallas; and)
D-O FNU Gant,)
)
)
Defendants.)
)

The above referenced case is before this court upon plaintiff's motion to appoint counsel. This motion was filed on August 4, 2016.

There is no right to appointed counsel in Section 1983 cases. Harwick v Ault, 517 F.2d 295 (5th Cir. 1973). The court is granted the power to exercise its discretion to appoint counsel for an indigent in a civil action. 28 U.S.C. § 1915(d) and Smith v. Blackledge, 451 F.2d 1201 (4th Cir. 1971). However, the appointment “should be allowed only in exceptional cases.” Cook v. Bounds, 518 F.2d 779, 780 (4th Cir. 1975).

Here, the Fourth Circuit Court of Appeals filed its opinion on July 29, 2016, in which it vacated the portion of the district court's order finding that defendant Sargent Ratliff was entitled to qualified immunity and remanded the case for further proceedings. The court then requested that Richard A. Farrier, Jr., Esquire and Christopher A. Jaros, Esquire of the law firm K&L Gates, represent the plaintiff in this action. Both attorneys have agreed to undertake representation of the plaintiff and the court hereby appoints Richard A. Farrier, Jr., Esquire and

Christopher A. Jaros, Esquire to represent the plaintiff from this point to the conclusion of the matter. The motion to appoint counsel is hereby **GRANTED**.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'D. Norton', written over a horizontal line.

David C. Norton
United States District Judge

November 28, 2016
Charleston, South Carolina