

Appendix A

FILED: May 19, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-2177
(9:18-cv-03028-RMG)

In re: WILLIE JOHNSON

Petitioner

J U D G M E N T

In accordance with the decision of this court, the petition for writ of
mandamus is denied.

/s/ NWAMAKA ANOWI, CLERK

UNPUBLISHED

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

No. 24-2177

In re: WILLIE JOHNSON,

Petitioner.

On Petition for Writ of Mandamus to the United States District Court for the District of South Carolina, at Beaufort. (9:18-cv-03028-RMG)

Submitted: May 15, 2025

Decided: May 19, 2025

Before NIEMEYER and HEYTENS, Circuit Judges, and KEENAN, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Willie Johnson, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Willie Johnson, a South Carolina prisoner, petitions for a writ of mandamus seeking an order (a) enforcing the district court's April 29, 2019 order, which purportedly awarded Johnson \$27.5 million in damages; (b) invalidating the district court's April 2, 2021, order granting Defendants summary judgment in Johnson's 42 U.S.C. § 1983 action; and (c) compelling Johnson's immediate release from prison. We conclude that Johnson is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367, 380 (2004); *In re Murphy-Brown, LLC*, 907 F.3d 788, 795 (4th Cir. 2018). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought and "has no other adequate means to attain the relief [he] desires." *Murphy-Brown*, 907 F.3d at 795 (alteration and internal quotation marks omitted).

First, Johnson's request for enforcement of a damages award lacks record support. That is, while Johnson purports that the district court's April 29, 2019, order awarded him damages, we observe that this order simply permitted Johnson to proceed in forma pauperis and allowed the matter to continue on Johnson's proposed second amended complaint. *See Johnson v. Stirling*, No. 9:18-cv-03028-RMG (D.S.C. PACER No. 35). Next, as to Johnson's request that we invalidate the district court's order granting Defendants summary judgment, mandamus is not a substitute for appeal, *In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007), and this court has already affirmed the district court's orders in this regard, *see Johnson v. Stirling*, Nos. 19-6657/7791, 2021 WL 5563933 (4th

Cir. Nov. 29, 2021). Finally, to the extent that Johnson asks us to direct his immediate release from prison, he fails to establish a clear right to such relief. *See In re Murphy-Brown*, 907 F.3d at 795.

Because none of the relief sought by Johnson is available by way of mandamus, we deny the petition for writ of mandamus, as amended. 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.

PETITION DENIED

Porter Exhibit
(C) APPENDIX B

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Willie Johnson,

Plaintiff,

v.

Bryan P. Stirling; West Price; Sgt. A.
Hudson; Sgt. Wright; Emily A. Farr; Dr.
Rick Toomey, Director of DHEC;
Elizabeth Simmons; Dr. Stacy Smith;
Lt. Kimberly Story,

Defendants.

Civil Action No. 9:18-3028-RMG

ORDER

Before the Court is the Report and Recommendation ("R & R") of the Magistrate Judge (Dkt. No. 57) recommending that the Court partially dismiss Plaintiff's Complaint. For the reasons set forth below, the Court adopts the R & R as the Order of the Court and partially dismisses Plaintiff's Complaint. (Dkt. No. 47.)

I. Background

Plaintiff is a *pro se* individual housed at the Broad River Correctional Institution. He brings this action pursuant to 42 U.S.C. § 1983. The Court previously dismissed Plaintiff's First Amended Complaint because it contained vague allegations and pleading deficiencies. (Dkt. No. 29.) The Plaintiff filed a motion to reconsider the Court's order dismissing his case. (Dkt. No. 32.) The Court granted Plaintiff's motion to reconsider, vacated the prior order dismissing the First Amended Complaint, and referred the case back to the Magistrate Judge for a review of Plaintiff's Second Amended Complaint. (Dkt. No. 35.) The Court issued an additional order directing Plaintiff to bring his case into proper form order. (Dkt. No. 46.) Plaintiff provided the necessary documents to bring the case into proper form. (Dkt. No. 47.) In his Second Amended Complaint,

For the Exhibit
(D) APPENDIX C

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

Willie Johnson,

Plaintiff,

v.

Bryan P. Stirling, West Price, Sgt. A.
Hudson, Sgt. Story, Sgt. Wright,

Defendants.

Civil Action No. 9:18-3028-RMG

ORDER

Before the Court is Mr. Johnson's motion to reconsider (Dkt. No. 32). For the reasons set forth below, the motion is granted.

I. Background

Mr. Johnson is a *pro se* incarcerated person who brought an action pursuant to 42 U.S.C. § 1983. Plaintiff amended his complaint, although the amended complaint asserted substantially the same allegations. The Court previously adopted the Magistrate Judge's Report and Recommendation (Dkt. No. 20), to which Mr. Johnson objected (Dkt. No. 27), as the order of the Court. (Dkt. No. 29.) The Court dismissed the amended complaint with prejudice, denied Mr. Johnson's motion for a preliminary injunction (Dkt. No. 15), and denied his motion to proceed *in forma pauperis* (Dkt. No. 2). Mr. Johnson now moves the Court to reconsider dismissal of the amended complaint and denial of his motion to proceed *in forma pauperis*.¹

¹ Mr. Johnson does not appear to argue for reconsideration of the denial of his motion for a preliminary injunction, which the Court determined on a *de novo* review that he had not adequately demonstrated under the standard mandated by the U.S. Supreme Court in *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20-22 (2008).

II. Legal Standard

Federal Rule of Civil Procedure 59 allows a party to move to alter or amend a judgment within twenty-eight days. Fed. R. Civ. P. 59(e). The Court may grant a motion for reconsideration only in limited circumstances: “(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.” *Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998). A Rule 59 motion tests whether the Court’s initial Order was “factually supported and legally justified.” *Hutchinson v. Staton*, 994 F.2d 1076, 1081-82 (4th Cir. 1993). Therefore, the Court may decline to reconsider a prior holding that “applied the correct legal standards” and made “factual findings [] supported by substantial evidence.” *Harwley v. Comm’r of Soc. Sec. Admin.*, 714 Fed. Appx. 311, 312 (Mem) (4th Cir. 2018).

III. Discussion

The Court carefully reviewed the arguments raised in Mr. Johnson’s timely motion.²

First, the Court finds that Mr. Johnson is entitled to proceed *in forma pauperis* and grants his motion to reconsider that prior ruling. Mr. Johnson did not initially supply the requisite financial certificate with his November 8, 2018 motion to proceed *in forma pauperis*. He later filed the financial certificate on April 1, 2019 as an attachment to his proposed second amended complaint. (Dkt. No. 25-4.) The financial certificate supports a finding that Mr. Johnson qualifies to proceed *in forma pauperis* and, therefore, the Court grants the motion to reconsider this ruling and grants the motion to proceed *in forma pauperis*. (Dkt. No. 2.)

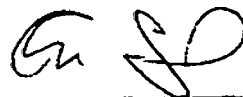
² Mr. Johnson also raises new arguments, such as that the Magistrate Judge violated his First Amendment right. The Court finds this argument is without merit and “Rule 59(e) motions may not be used [] to raise arguments which could have been raised prior to the issuance of the judgment, nor may they be used to argue a case under a novel legal theory that the party had the ability to address in the first instance.” *Pac. Ins. Co.*, 148 F.3d at 403.

Mr. Johnson also challenges the Court's prior ruling dismissing the amended complaint with prejudice. To this end, Mr. Johnson again raises the allegations previously made in the amended complaint. Mr. Johnson's "mere disagreement" with the Court's legal application "does not support a Rule 59(e) motion." *Hutchinson*, 994 F.2d at 1082. Subsequent to the Magistrate Judge's R & R and prior to dismissal, Mr. Johnson submitted a proposed second amended complaint. (Dkt. No. 25.) This proposed amended pleading has not yet been screened pursuant to 28 U.S.C. § 1915 and § 1915A under established local procedure of this District. Accordingly, the Court vacates its prior dismissal of the amended complaint and refers this matter to the Magistrate Judge for appropriate initial review on the proposed second amended complaint.

IV. Conclusion

For the foregoing reasons, Mr. Johnson's motion for reconsideration (Dkt. No. 32) is **GRANTED**. Mr. Johnson's motion to proceed *in forma pauperis* (Dkt. No. 2) is **GRANTED**, the Court's prior dismissal of the amended complaint is **VACATED**, and this matter is **REFERRED BACK** to the Magistrate Judge for initial review on the proposed second amended complaint.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

April 17, 2019
Charleston, South Carolina

addressed first in light of the circumstances presented in the case at hand. 555 U.S. 223, 226-7, 237 (2009).

In this case, the evidentiary record establishes that Plaintiff failed to establish a genuine issue of material fact as to his allegations his constitutional rights were violated. The Magistrate Judge found that because Defendants did not violate Plaintiff's constitutional rights, they are also shielded from liability by qualified immunity. Plaintiff generally objects to the Magistrate Judge's finding on qualified immunity. (Dkt. No. 172 at 13-14). Plaintiff's objection is without merit as the record establishes Defendants did not violate his constitutional rights, and under *Pearson*, it is not necessary to proceed to the second step of the qualified immunity test. 555 U.S. at 236-43.

IV. Conclusion

For the reasons stated above, the Court **ADOPTS** the R & R as the Order of the Court. (Dkt. No. 170). Defendant's motion for summary judgment (Dkt. No. 161) is **GRANTED**.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Court Judge

April 2, 2021
Charleston, South Carolina

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