

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-6435

CHARLIE M. TAYLOR,

Plaintiff - Appellant,

versus

ERNEST R. SUTTON; HOWARD HEADMAN,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Fox, District Judge. (CA-95-706-5-F)

Submitted: March 26, 1998

Decided: April 6, 1998

Before WIDENER and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Charlie M. Taylor, Appellant Pro Se. Neil Clark Dalton, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant appeals the district court's order denying his motion for new judgment and motion to set aside summary judgment for Appellees on Appellant's 42 U.S.C. § 1983 claim. Because we find that the district court did not abuse its discretion in denying Appellant's motion to set aside judgment, we affirm.

This court reviews a district court's denial of a Fed. R. Civ. P. 60(b) motion to set aside judgment for an abuse of discretion. NOW v. Operation Rescue, 47 F.3d 667, 669 (4th Cir. 1995). The motion is not intended to be used as a substitute for a timely and proper appeal. See Ackermann v. United States, 340 U.S. 193, 198 (1950). A party seeking relief under Rule 60(b) must show "timeliness, a meritorious defense, a lack of unfair prejudice to the opposing party, and exceptional circumstances." Dowell v. State Fire & Cas. Auto. Ins. Co., 993 F.2d 46, 48 (4th Cir. 1993) (quoting Werner v. Carbo, 731 F.2d 204, 206-07 (4th Cir. 1984)).

In his motion, Appellant merely restates his conclusory allegations that Appellees violated his civil rights by transferring him in retaliation for filing grievances against prison medical staff. Because Appellant failed to make the required showing for relief under Rule 60(b), we affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED