

UNPUBLISHED

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

SCOTT SOWELL,

*Plaintiff-Appellant,*

v.

DEREK WHEELER, Prison Guard, CO  
II,

*Defendant-Appellee.*

No. 00-7459

Appeal from the United States District Court  
for the District of Maryland, at Baltimore.  
Beth P. Gesner, Magistrate Judge.  
(CA-98-3443-JFM)

Submitted: January 11, 2001

Decided: January 24, 2001

Before NIEMEYER, WILLIAMS, and KING, Circuit Judges.

---

Affirmed by unpublished per curiam opinion.

---

**COUNSEL**

Scott Sowell, Appellant Pro Se. John Joseph Curran, Jr., Attorney General, Gloria Wilson Shelton, OFFICE OF THE ATTORNEY GENERAL OF MARYLAND, Baltimore, Maryland, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit.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

**OPINION**

## PER CURIAM:

Scott Sowell appeals an adverse jury verdict in his action filed pursuant to 42 U.S.C.A. § 1983 (West Supp. 1999), in which he claimed a violation of his constitutional rights while incarcerated in the Maryland Correctional Institution. Specifically, the jury found for Officer Derek Wheeler on the issues of whether Wheeler used excessive force in allegedly spraying mace into Sowell's face during a prison disturbance, and whether Wheeler denied Sowell medical treatment. On appeal, Sowell alleges that the magistrate judge erred in denying the admission of certain evidence at trial and in failing to grant Sowell's request for additional discovery. This court reviews the determinations of the district court on the issues of admission of evidence and discovery matters for abuse of discretion. *Martin v. Deiriggi*, 985 F.2d 129, 137 (4th Cir. 1992). Because Sowell has not demonstrated such abuse by the magistrate judge, we deny his claim on appeal.

Sowell also claims that the magistrate judge erred in denying his motion to terminate the services of court-appointed counsel, claiming that his attorney was ineffective. Sowell does not indicate at what point in the proceedings he made his motion and the record before this court on appeal does not reveal this information. However, in his informal brief, Sowell references several alleged instances of ineffective assistance relating to counsel's trial performance. Because the right to self-representation must be timely asserted, *United States v. Lawrence*, 605 F.2d 1321 (4th Cir. 1979), and because a defendant has no absolute right to dismiss counsel and proceed pro se once trial has commenced, *Bassette v. Thompson*, 915 F.2d 932, 941 (4th Cir. 1990), we find no reversible error.

Accordingly, we affirm the magistrate judge's rulings and the jury's verdict. 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*