

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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| ANTHONY D. DAVIS, <i>Plaintiff-Appellant,</i> v. CITY OF JACKSONVILLE, <i>Defendant-Appellee.</i> |
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No. 01-1090

Appeal from the United States District Court
for the Eastern District of North Carolina, at Wilmington.
James C. Fox, Senior District Judge.
(CA-99-236-7-F)

Submitted: December 10, 2001

Decided: December 28, 2001

Before TRAXLER, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

COUNSEL

Anthony D. Davis, Appellant Pro Se. Gregory Wenzl Brown, CRAN-FILL, SUMNER & HARTZOG, L.L.P., Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Anthony D. Davis appeals from the district court's order granting summary judgment in favor of Appellee, and dismissing his employment discrimination action alleging violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.A. § 2000e (West 1994 & Supp. 2001), on the ground that the summary judgment motion was unopposed. Our review of the record discloses that this appeal is subject to dismissal as moot.

Following the filing of a notice of appeal, by counsel, from the underlying judgment, Davis filed in the district court a *pro se* Fed. R. Civ. P. 60(b) motion in which he claimed attorney malpractice in failing to respond to the motion for summary judgment, and the district court's entry of an adverse order without consideration of evidence he could submit. The district court granted the Rule 60(b) motion, and ordered Davis to request from this court a limited remand of the action in light of the district court's grant of the Rule 60(b) motion and pursuant to *Fobian v. Storage Technology Corp.*, 164 F.3d 887, 891-92 (4th Cir. 1999). By order of April 24, 2001, we granted the limited remand, and the district court considered fully the evidence Davis submitted in opposition to Appellee's summary judgment motion.* Because the basis for Davis's notice of appeal was remedied when we granted the limited remand and the district court granted Davis's Rule 60(b) motion and considered the opposition evidence Davis filed, Davis's ground for appeal was rendered moot.

We therefore dismiss this appeal. 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.

DISMISSED

*Davis filed a second notice of appeal to the district court's adverse finding following full consideration of the claims, which has been assigned appeal No. 01-2230, and which currently is pending with this court in mediation.