

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6726

CLARENCE BILLUPS,

Plaintiff - Appellant,

versus

J. P. LOFTON, Correctional Officer of
Department of Corrections, Supervisor of Paint
Crew; KENT GRANT, Safety Officer, Department
of Corrections; EARL BARKSDALE, Chief of
Security; LIEUTENANT THOMAS, Watch Commander,
Department of Corrections; ALTON BASKERVILLE,
Warden, Department of Corrections,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. T. S. Ellis, III, District
Judge. (CA-03-420-AM)

Submitted: October 3, 2003

Decided: October 24, 2003

Before NIEMEYER, TRAXLER, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Clarence Billups, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Clarence Billups appeals the district court's order dismissing his 42 U.S.C. § 1983 (2000) complaint as frivolous under 28 U.S.C. § 1915A(b)(1) (2000). We have reviewed the record and find no reversible error.

We review dismissals under § 1915A de novo. See Veney v. Wyche, 293 F.3d 726, 730 (4th Cir. 2002). The district court dismissed Billups's § 1983 complaint as frivolous because it had previously dismissed a claim filed by him based on the same issues and brought against the same defendants. See Billups v. Lofton, 03-CV-71 (E.D. Va. Feb 3, 2003). Billups did not appeal the disposition of this earlier dismissal.

We find that Billups's § 1983 claim is barred by the applicable two-year statute of limitations for personal injury actions in Virginia. See Harvey v. Horan, 278 F.3d 370, 384 (4th Cir. 2002); see also VA. CODE ANN. § 8.01-243. Moreover, his claims of negligence on the part of the defendants do not support recovery under § 1983. See Baynard v. Malone, 268 F.3d 228, 236 (4th Cir. 2001); see also Grayson v. Peed, 195 F.3d 692, 695 (4th Cir. 1999). Thus, we find that the district court's dismissal under § 1915A(b)(1) was proper, and we affirm the district court's order on the modified grounds noted herein. We also deny Billups's motions for oral argument and for appointment of counsel. 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