

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-7380**

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JAMES A. BUTLER,

Plaintiff - Appellant,

versus

FEDERAL BUREAU OF PRISONS; UNITED STATES  
DEPARTMENT OF JUSTICE; FEDERAL CORRECTIONAL  
INSTITUTE, CUMBERLAND; WARDEN SHEARIN; UNITED  
STATES OF AMERICA,

Defendants - Appellees.

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Appeal from the United States District Court for the District of  
Maryland, at Baltimore. William M. Nickerson, Senior District  
Judge. (CA-03-797-1-WMN)

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Submitted: July 21, 2004

Decided: August 12, 2004

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Before WIDENER, WILLIAMS, and KING, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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James A. Butler, Appellant Pro Se. Thomas Michael DiBiagio, United  
States Attorney, Baltimore, Maryland; Matthew Wayne Mellady, UNITED  
STATES DEPARTMENT OF JUSTICE, Annapolis Junction, Maryland, for  
Appellees.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

James A. Butler filed suit under the Federal Tort Claims Act, seeking damages for the loss of his legal materials. Defendants filed a motion for summary judgment, and although warned of the consequences, Butler failed to respond. The district court granted the motion, and Butler appeals. After a thorough review of the record, we find that Butler failed to demonstrate a genuine issue of material fact for trial. As the non-moving party, Butler could not rely upon the mere allegations of his complaint. Since he failed to respond with affidavits or other verified evidence, summary judgment was appropriately entered against him. See Fed. R. Civ. P. 56; Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Accordingly, we affirm. We deny Butler's motion to appoint 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