

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7874

AHMED M. AJAJ,

Petitioner - Appellant,

versus

JOSEPH V. SMITH,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Cameron McGowan Currie, District Judge. (CA-02-2417-0)

Submitted: May 28, 2004

Decided: July 27, 2004

Before WILKINSON, NIEMEYER, and LUTTIG, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

Ahmed M. Ajaj, Appellant Pro Se. John Berkley Grimball, II, Barbara Murcier Bowens, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Ahmed M. Ajaj seeks to appeal the district court's order denying relief in this 28 U.S.C. § 2241 (2000) action. We affirm as modified.

The complaint alleged constitutional violations at FCI-Edgefield, and is properly construed as an action brought pursuant to Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971). Ajaj sought only equitable relief, and his transfer to the federal penitentiary in Florence, Colorado, mooted his claims about conditions at FCI-Edgefield. See Williams v. Griffin, 952 F.2d 820, 823 (4th Cir. 1991). To the extent that Ajaj complained about his transfer to Colorado, the Bureau of Prisons has discretion to determine where and under what conditions a federal prisoner is housed. See Bell v. Wolfish, 411 U.S. 520, 539, 540-41 n.23 (1979). Further, Ajaj did not have a protected liberty interest in remaining at FCI-Edgefield. See Sandin v. Conner, 515 U.S. 472, 484 (1995). Finally, the district court should not have addressed the conditions of Ajaj's confinement in Colorado. Ajaj named only the warden at FCI-Edgefield as a defendant and did not amend his complaint to add a cause of action about conditions of his confinement in Colorado. The district court was without jurisdiction over anyone with responsibility for such conditions.

We accordingly affirm as modified. Ajaj's motion for the appointment of counsel is denied. This decision is without prejudice to Ajaj's right to challenge the conditions of his present confinement in the district court in Colorado. 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 AS MODIFIED