

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-1415

ELLIS SCOTT FRISON, III,

Plaintiff - Appellant,

versus

CRISWELL POWER SPORTS,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Alexander Williams, Jr., District Judge. (CA-04-2093-AW)

Submitted: October 21, 2005

Decided: November 14, 2005

Before LUTTIG, MOTZ, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

E. SCOTT FRISON, JR., LAW FIRM OF E. SCOTT FRISON, JR., Washington, D.C., for Appellant. Stephen D. Weiss, LAW OFFICES OF STEPHEN D. WEISS, LLC, Rockville, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Ellis Scott Frison, III, appeals the district court's order granting Defendant's motion to dismiss. Frison contends for the first time on appeal that the district judge was biased against his counsel and should have recused himself. Claims raised for the first time on appeal will not be considered absent exceptional circumstances. Muth v. United States, 1 F.3d 246, 250 (4th Cir. 1993). No such extraordinary circumstances exist in this case, so we decline to address this claim. Moreover, although Frison's opening brief recited the facts giving rise to his complaint, that brief did not challenge the district court's order dismissing his action for lack of subject matter jurisdiction; his only claim in this regard was first raised in his reply brief. Arguments not raised in the opening brief are deemed waived. See Yousefi v. U.S. I.N.S., 260 F.3d 318, 326 (4th Cir. 2001). Accordingly, Frison is foreclosed from challenging the substance of the district court's dismissal order.

In sum, we affirm the district court's final order, and we deny Frison's motions to supplement his brief and to file a supplemental joint appendix. 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