

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7685

GEORGE W. GANTT,

Plaintiff - Appellant,

versus

ERNEST R. SUTTON; COLBERT L. RESPASS; OFFICER
HERRING, Assistant Unit Manager; MAIL CLERK
HARRIS; MAILROOM OFFICER LIVERMAN;
CORRECTIONAL OFFICER BARNES; CORRECTIONAL
OFFICER SHARP; CORRECTIONAL OFFICER BANKS;
CORRECTIONAL OFFICER WALKER,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. James C. Dever III,
District Judge. (5:06-ct-03039-D)

Submitted: April 25, 2007

Decided: May 8, 2007

Before WILLIAMS, TRAXLER, and SHEDD, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

George W. Gantt, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

George W. Gantt appeals the district court's order dismissing with prejudice his amended complaint filed under 42 U.S.C. § 1983 (2000), for failure to comply with the court's prior order directing him to file a complaint setting forth his claims in a short and plain statement, as required by Fed. R. Civ. P. 8(a), and warning him of the consequences of failing to comply. Our review of the record leads us to conclude that the district court did not abuse its discretion in finding that Gantt failed to comply with Rule 8. See Ciralsky v. CIA, 355 F.3d 661, 668-69 (D.C. Cir. 2004) (stating standard of review). We find, however, that the district court's dismissal of Gantt's complaint with prejudice was a harsh remedy. Such dismissals undermine "the sound public policy of deciding cases on their merits." Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978). Thus, we modify the district court's dismissal to be without prejudice to Gantt's right to refile a complaint that satisfies Rule 8 and affirm the district court's order as modified. Gantt v. Sutton, No. 5:06-ct-03039-D (E.D.N.C. Oct. 2, 2006). 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