

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7754

BOBBY EUGENE RODDY, a/k/a Running Cougar,

Plaintiff - Appellant,

versus

STATE OF WEST VIRGINIA; OFFICE OF THE
GOVERNOR; MARY JO THOMPSON; JIM RUBENSTEIN; M.
H. BAUSO; D. L. STAFFORD; WILLIAM FOX; TONY
LEMASTERS; DON SPRINGSTON; DAN KIMBLE;
WILLIAM D. HALE; BARBARA RENNER; KENT HOBBS,
Reverend; ROBERT ADAMS; DENNIS MUELLER; DUANE
MUNDAY; SUSAN WADE; JOE CARROLL; MICHAEL
HENTHORN; JANE DOE; JOHN DOE; JAELL FULTON;
CORRECTIVE MEDICAL SERVICES; DIANE SHINGLER;
KAROL PAYNE; VICKIE CAIN; TAMMY HARLAN;
PATRICK MIRANDY; SHEILA RAMSEY; JACK
STALLINGS; MISTY ADAMS; CAPTAIN ANDERSON; KATY
PRATT,

Defendants - Appellees.

Appeal from the United States District Court for the Northern
District of West Virginia, at Wheeling. Frederick P. Stamp, Jr.,
District Judge. (5:05-cv-00170-FPS)

Submitted: March 30, 2007

Decided: April 16, 2007

Before WILKINSON and MICHAEL, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed in part, vacated in part, and remanded by unpublished per
curiam opinion.

Bobby Eugene Roddy, Appellant Pro Se. Charles R. Bailey, Billie Jo Streyle, Jason A. Winnell, BAILEY & WYANT, PLLC, Charleston, West Virginia; Virginia Grottendieck Lanham, South Charleston, West Virginia; John A. Hoyer, STATE POLICE LEGAL COUNSEL, South Charleston, West Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bobby Eugene Roddy appeals the district court's order accepting in part the recommendations of the magistrate judge and denying relief on his 42 U.S.C. § 1983 (2000) complaint. Roddy raises three issues on appeal: (1) that his legal mail was improperly opened; (2) that the West Virginia Department of Corrections Policy Directive 503.00 is unconstitutional; and (3) that his free exercise of religion claim was improperly dismissed. We have reviewed the record and find no reversible error for the first two issues. Accordingly, we affirm for the reasons stated by the district court. Roddy v. West Virginia, No. 5:05-cv-00170-FPS (N.D. W. Va. Sept. 21, 2006). For Roddy's third issue,* however, we vacate and remand in light of the Supreme Court's recent opinion in Jones v. Bock, ___U.S.____, 127 S. Ct. 910 (2007). 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 IN PART,
VACATED IN PART, AND REMANDED

*The district court described this claim as the "free exercise of religion claim" (R. 54 at 10) and dismissed the claim sua sponte for failure to exhaust administrative remedies.