

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6494

CHARLES K B TYSON,

Plaintiff - Appellant,

versus

JON E. OZMINT, Director,

Defendant - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Patrick Michael Duffy, District Judge. (6:06-cv-00385)

Submitted: September 14, 2007

Decided: September 21, 2007

Before WILKINSON, MOTZ, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Charles K B Tyson, Appellant Pro Se. Ruskin C. Foster, Charles Jonathan Bridgmon, MCCUTCHEN, BLANTON, JOHNSON & BARNETTE, LLP, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles Tyson appeals the district court's order modifying the recommendation of the magistrate judge and dismissing Tyson's 42 U.S.C. § 1983 (2000) complaint without prejudice for failure to exhaust administrative remedies.* We have reviewed the record and find no reversible error. Accordingly, we affirm on the reasoning of the district court. See Tyson v. Ozmint, No. 6:06-cv-00385 (D.S.C. Mar. 1, 2007). We deny as moot Tyson's motions to consolidate and to stay the case. 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

*To the extent Tyson seeks to appeal the district court's separate order accepting the recommendation of the magistrate judge and denying his motion for a preliminary injunction or temporary restraining order, we note that Tyson's notice of appeal was not timely filed and he failed to timely obtain a reopening of the appeal period. See Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978); Fed. R. App. P. 4(a)(1)(A), (a)(6). We therefore lack jurisdiction to review that order.