

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6652

RAYMOND Q. HURNDON,

Plaintiff - Appellant,

v.

NSEKENENE KOLONGO, Nurse, Doctor Practitioner; PRISON HEALTH SERVICES, Medical Provider; ABLASBAU, Nurse Practitioner,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, Senior District Judge. (3:07-cv-00062-REP)

Submitted: July 18, 2008

Decided: August 12, 2008

Before NIEMEYER and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

Raymond Q. Hurndon, Appellant Pro Se. Edward Joseph McNelis, III, Elizabeth Martin Muldowney, RAWLS & MCNELIS, PC, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In January of 2007, Raymond Q. Hurndon filed a 42 U.S.C. § 1983 (2000) action in the Eastern District of Virginia alleging that he had received inadequate medical care while imprisoned in Virginia. On October 15, 2007, Hurndon filed a motion which clearly informed the district court that he had been transferred to the Alvin S. Glenn Detention Center located in Columbia, South Carolina. On that same date, the magistrate judge filed a memorandum order notifying Hurndon of various matters, including the fact that he had 120 days to serve the defendants, that he must serve a copy of any pleading on all parties, and that he must inform the court of any change in address. This order was sent to Hurndon's prior address. Thereafter, by order filed on April 9, 2008, the court dismissed without prejudice Hurndon's action under Fed. R. Civ. P. 41(b) on the grounds that its October 15, 2007 memorandum order was "returned to the Court by the United States postal service marked, 'NO LONGER AT THIS ADDRESS RETURN TO SENDER.'" (R. 15).

Because it appears that Hurndon did provide notice of his address change, we vacate and remand the court's order dismissing Hurndon's action for failure to do so. Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978) (stating review standard for Rule 41(b) dismissal). 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.

VACATED AND REMANDED