

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6194

KEYON RIDDICK,

Plaintiff - Appellant,

v.

HERLOCK, Mr. Director of Security; JO HONG, Correctional
Officer; FAUX, Mr. Correctional Officer,

Defendants - Appellees,

and

CHAN, Correctional Officer; JUSTICE, Correctional Officer;
WITTAKER, Correctional Officer/Sergeant; RAY, Correctional
Officer; MAILS, Correctional Officer/Sergeant,

Defendants.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. T.S. Ellis, III, Senior
District Judge. (1:12-cv-01240-TSE-TRJ)

Submitted: June 12, 2013

Decided: July 3, 2013

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

Vacated and remanded by unpublished per curiam opinion.

Keyon Riddick, Appellant Pro Se. Alexander Francuzenko, Lee
Brinson Warren, COOK CRAIG & FRANCUZENKO, PLLC, Fairfax,

Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Keyon Riddick appeals the district court's order dismissing his 42 U.S.C. § 1983 (2006) complaint without prejudice for failure to comply with an order directing that he file an affidavit as to his exhaustion of administrative remedies. On appeal, Riddick alleges that he placed his responsive affidavit in the prison mailing system on December 25, 2013. We note that Riddick filed a letter with the district court stating that he had filed additional "attachments" to his amended complaint on December 27, 2013. If, as Riddick intimates on appeal, these attachments included his exhaustion affidavit, his papers would have been deemed timely filed pursuant to the prison mailbox rule. See Houston v. Lack, 487 U.S. 266, 276 (1988). Therefore, we vacate the district court's order and remand for the limited purpose of permitting the district court to make a factual determination as to whether Riddick timely placed his exhaustion affidavit in the prison mailing system. The record as supplemented by the district court's findings will then be returned to this court for further review.

VACATED AND REMANDED