

Filed: May 29, 1996

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-7422
(CA-95-1597-DKC)

Darrell L. Ricks,

Plaintiff - Appellant,

versus

Donald Waltemeyer, et al,

Defendants - Appellees.

O R D E R

The Court amends its opinion filed May 21, 1996, as follows:
On page 2, line 8 of opinion -- the phrase "that has conviction" is corrected to read "that his conviction."

For the Court - By Direction

/s/ Bert M. Montague

Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-7422

DARRELL L. RICKS,

Plaintiff - Appellant,

versus

DONALD WALTEMEYER; WILLIAM COLE,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Deborah K. Chasanow, District Judge. (CA-95-1597-DKC)

Submitted: January 16, 1996

Decided: May 21, 1996

Before WILKINSON, Chief Judge, and WIDENER and WILLIAMS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Darrell L. Ricks, Appellant Pro Se. Robert Charles Verderaime, VERDERAIME & DUBOIS, Baltimore, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant appeals from the district court's order denying his Fed. R. Civ. P. 60(b) motion to alter or amend judgment. We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm the district court's order but on modified grounds. Appellant's motion fails because his 42 U.S.C. § 1983 (1988) claim calls into question the validity of his confinement, Preiser v. Rodriguez, 411 U.S. 475, 489 (1973), and he has not established that his conviction has been rendered invalid. See Heck v. Humphrey, ___ U.S. ___, 62 U.S.L.W. 4594 (U.S. June 24, 1994) (No. 93-6188). Thus, the district court did not abuse its discretion by denying the motion. See United States v. Williams, 674 F.2d 310, 312 (4th Cir. 1982). 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