

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 95-7553**

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GARRY OKPALA,

Plaintiff - Appellant,

versus

JOHN F. FANELLO, Warden of FCI-Estill,

Defendant - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Beaufort. G. Ross Anderson, Jr., District Judge. (CA-95-858-9-3JC)

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Submitted: February 7, 1996

Decided: February 22, 1996

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Before MURNAGHAN and WILLIAMS, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Garry Okpala, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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 motion for reconsideration of the dismissal of his Bivens\* complaint. We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm substantially on the reasoning of the district court. Okpala v. Fanello, No. CA-95-858-9-3JC (D.S.C. Sept. 1, 1995). In addition, Appellant's claim regarding exposure to environmental tobacco smoke was correctly dismissed, because it improperly sought to hold Appellee liable under the theory of respondeat superior. See Jett v. Dallas Indep. Sch. Dist., 491 U.S. 701, 735 (1989). 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

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\* Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971).