

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-7227

ELWALDO R. JAMES, a/k/a Donald Mitchell, a/k/a
Calvin B. Smith,

Plaintiff - Appellant,

versus

J. THICKENS, Investigator, Rock Hill Police
Department; C. RUSSELL, Police Officer, Rock
Hill Police Department; C. LONG, Chief, Rock
Hill City Police Department Jail; individually
and in their official capacities,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Charleston. Charles E. Simons, Jr., Senior
District Judge. (CA-94-1114-2-6AJ)

Submitted: December 19, 1996

Decided: January 6, 1997

Before ERVIN and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit
Judge.

Affirmed by unpublished per curiam opinion.

Elwaldo R. James, Appellant Pro Se. Terry B. Millar, MCKINNEY,
GIVENS & MILLAR, P.A., Rock Hill, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant appeals the district court's orders denying relief on his 42 U.S.C. § 1983 (1994) complaint and denying his motion filed under Fed. R. Civ. P. 59(e). We have reviewed the record and the district court's opinion accepting the magistrate judge's recommendation and find no reversible error in the denial of § 1983 relief. Nor did the district court abuse its discretion in denying Appellant's Rule 59(e) motion. Accordingly, we affirm on the reasoning of the district court. James v. Thickens, No. CA-94-1114-2-6AJ (D.S.C. July 2, 1996; July 25, 1996). We also note that although the district court did not address Appellant's request for declaratory and injunctive relief, this action is properly construed as a habeas corpus action which requires Appellant to exhaust state court remedies. See Preiser v. Rodriguez, 411 U.S. 475, 489 (1973); Hamlin v. Warren, 664 F.2d 29 (4th Cir. 1981), cert. denied, 455 U.S. 911 (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