

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-2742

DEAN W. SMITH,

Plaintiff - Appellant,

versus

RAVEN HOCKING COAL CORPORATION, an Ohio corporation; WAMPUM HARDWARE COMPANY, a Pennsylvania corporation; MACK ENERGY COMPANY, an Ohio corporation; EASTERN KENTUCKY EXPLOSIVES, a Kentucky corporation,

Defendants - Appellees.

Appeal from the United States District Court for the Southern District of West Virginia, at Huntington. Charles H. Haden II, Chief District Judge. (CA-97-738-3)

Submitted: March 26, 1998

Decided: April 6, 1998

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

Affirmed by unpublished per curiam opinion.

Dean W. Smith, Appellant Pro Se. Randall Lee Trautwein, LAMP, O'DELL, BARTRAM, ENTSMINGER, LEVY & TRAUTWEIN, P.L.L.C., Huntington, West Virginia; John Tyler Dinsmore, FLAHERTY, SENSABAUGH & BONASSO, Charleston, West Virginia; Barry Michael Taylor, JENKINS FENSTERMAKER, P.L.L.C., Huntington, West Virginia; Edward Martin Kowal, Jr., CAMPBELL, WOODS, BAGLEY, EMERSON, MCNEER & HERNDON, Huntington, West Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant appeals the district court's order denying Appellant's requests to reverse the decision of the Supreme Court of West Virginia and to remand the action to the Circuit Court of Mason County, West Virginia. We have reviewed the record and the district court's opinion accepting the magistrate judge's report and recommendation and find no reversible error. Accordingly, we affirm on the reasoning of the district court. Smith v. Raven Hocking Coal Corp., No. CA-97-738-3 (S.D.W. Va. Nov. 5, 1997). Additionally, we deny Appellees' motion to dismiss for lack of jurisdiction as moot. 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