

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-6739

LINDA MIDGETTE,

Plaintiff - Appellant,

versus

MR. BRENNER, Assistant Nursing Director;
UNKNOWN KELLY, Nurse Practitioner, LPN,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern Dis-
trict of Virginia, at Richmond. Robert E. Payne, District Judge.
(CA-99-72-3)

Submitted: July 30, 1999

Decided: September 13, 1999

Before NIEMEYER, LUTTIG, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Linda Midgette, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Linda Midgette appeals from the district court's order dismissing her 42 U.S.C.A. § 1983 (West Supp. 1999) complaint without prejudice for failure to comply with a district court order to submit a partial filing fee of \$5.61 or state under penalty of perjury that she lacked sufficient funds to pay such a fee. Finding no abuse of discretion in the district court's dismissal, we affirm on the reasoning of the district court. See Midgette v. Brenner, No. CA-99-72-3 (E.D. Va. May 10, 1999). We note, however, that the remedy of a Fed. R. Civ. P. 60(b) motion remains available to Midgette in which she may offer proof of timely compliance with the district court's order. 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