

Rehearing granted, January 7, 2005

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6520

JOSEPH M. ALLSBROOK,

Plaintiff - Appellant,

versus

P. A. TERRANGI, Warden, Indian Creek Correctional Center; JAMES KEELING, Former Assistant Warden, Programs; LAURA CORNERS, Former Assistant Warden, Programs; MAXINE PORCHER, Director of Therapeutic Program, Indian Creek Correctional Center; DR. LALANI MCCANN, Former Director of Medical, Indian Creek Correctional Center; MS. BILAL, Clinical Social Worker, Supervisor (Housing Unit 6), Indian Creek Correctional Center; MR. MEYER, Clinical Social Worker, Housing Unit 6A, Indian Creek Correctional Center; MR. WARR, Clinical Social Worker, Housing Unit 6B, Indian Creek Correctional Center; MS. NEIVES; DR. EDELMAN, Administrator, Prison Health Services; DR. LEWIN,

Defendants - Appellees.

and

DR. VERNON SMITH, Director of Health Services, Virginia Department of Corrections; MS. DOTSON, a Former Employee of the Medical Department at Indian Creek Correctional Center as Head Nurse; AND OTHERS,

Defendants.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Henry Coke Morgan, Jr., District Judge. (CA-03-114)

Submitted: July 28, 2004

Decided: August 18, 2004

Before MOTZ, KING, and DUNCAN, Circuit Judges.

Affirmed in part, vacated in part, and remanded by unpublished per curiam opinion.

Joseph M. Allsbrook, Appellant Pro Se. Mark Ralph Davis, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia; Jeff Wayne Rosen, Lisa Ehrich, PENDER & COWARD, P.C., Virginia Beach, Virginia; Edward Joseph McNelis, III, John David McChesney, RAWLS & MCNELIS, P.C., Richmond, Virginia; Roy Barrow Blackwell, Mary Elizabeth Sherwin, KAUFMAN & CANOLES, Norfolk, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Joseph M. Allsbrook appeals the district court's order denying relief on his 42 U.S.C. § 1983 (2000) complaint. As to Allsbrook's claim he received inadequate medical care, we affirm the district court's order denying relief. As to Allsbrook's claim that the prison drug rehabilitation program was unconstitutional under the First Amendment because it required participants to recite a creed, we affirm the district court's order denying relief. As to Allsbrook's assertion that the prison drug rehabilitation program was unconstitutional under the First Amendment because it required him to watch a video recommending participation in a Christian or religious fellowship group, we vacate the district court's dismissal of this claim for failure to exhaust administrative remedies and remand to the district court for further review, noting the record reveals that on November 8, 2002, Allsbrook filed an unsuccessful grievance regarding this claim. 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. Allsbrook's motion for appointment of counsel is denied.

AFFIRMED IN PART,
VACATED IN PART, AND REMANDED