

Filed: February 4, 2010

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 91-3044 (L)
(CA-91-106-5)

Roger L. Crawford, Msgt. USAF (Ret),
Plaintiff - Appellant,

v.

West Virginia Governor's Office; The West Virginia
Legislature; The West Virginia Judiciary,

Defendants - Appellees.

O R D E R

The Court modifies the opinion in this case by redacting the social security numbers of the appellees included in the caption of the case in docket number 91-3047.

For the Court - By Direction

/s/ Patricia S. Connor

Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 91-3044

ROGER L. CRAWFORD, MSGT USAF (Ret),

Plaintiff-Appellant,

v.

WEST VIRGINIA GOVERNOR'S OFFICE; THE WEST VIRGINIA
LEGISLATURE; THE WEST VIRGINIA JUDICIARY,

Defendants-Appellees.

No. 91-3045

ROGER L. CRAWFORD,

Plaintiff-Appellant,

and

SIDIKA CRAWFORD; CAN JOHN M. CRAWFORD,

Plaintiffs,

v.

GASTON CAPERTON, in his individual capacity as Governor;
DOLGEN CORPORATION, a/k/a DOLLAR GENERAL STORES, INC.; DORIS
LANE, in her individual capacity as Manager of the Dollar
General Store, Hinton; THE FIRST NATIONAL BANK OF HINTON,
Plaintiff's local financial institution; SUMMERS COUNTY
BOARD OF EDUCATION, in its official capacity; STATE OF WEST
VIRGINIA, in its official capacity as a State of the Union;
CSX TRANSPORTATION, INC., a corporation a/k/a CSX RAIL

TRANSPORT, CSX TRANSPORT GROUP; RICHARD GUNNOE, Attorney at Law; SUMMERS COUNTY COMMISSION, in its official capacity; BENJAMIN REED, in his official capacity as Postmaster, U.S. Post Office, Hinton; THE U.S. POSTAL SERVICES; JOSEPH AUCREMANNE, in his individual capacity as Prosecuting Attorney, Summers County; PERRY MANN, in his individual capacity as Prosecuting Attorney, Summers County; WILLIAM JEFFRIES & JAMES BEASLEY, in their individual capacities as Magistrates of Summers County; REVA BROWN, FRANCES BROWN, WANDA BROWN, RUDOLPH GORE, ROBIN CRAWFORD, FRANCINE (SMITH) GORE, ELIZABETH GORE, citizens of Hinton, West Virginia; GASTON CAPERTON, in his individual capacity as Governor; RICHARD NEELY, THOMAS B. MILLER, THOMAS E. MCHUGH, W.T. BROTHERTON, JR., MARGARET L. WORKMAN, in their individual capacities as Justices of the West Virginia Supreme Court of Appeals; KAY MEADOR, in her individual capacity as Clerk of Summers County Magistrate Court; WILMA G. ANGOTTI, citizen of Hinton; JUDY PETTY, FRED D. MOCK, JR., LINWILLE GOINS, RICHARD BLIVENS, BILL KEATON, GLORIA MEADOWS, Officers and Staff of the First National Bank of Hinton; DAWN WOLFE, Staff Writer, Raleigh Register Herald; TOM BRIERS, Sheriff of Summers County; HELEN (MOCK) HEDRICK, in her individual capacity as President of the County Commission; JAMES LESLIE, in his individual capacity as Mayor of Hinton; CITY OF HINTON, an incorporated municipality located in the County of Summers; E.E. BRYAN, in his individual capacity as ABC Commissioner; HARRY CAMPER, BILL ADKINS & HOLIDAY, in their individual capacities as Non-alcoholic Beer & Present ABC Commissioner & Agents, respectively; BRENDA S. PLUMBLEY, in her individual capacity as Secretary, Summers County Health Department;; GARNETTE CROWDER, in her individual capacity as Principal of Hinton High School; JAMES TASSOS, in his official capacity as Superintendent of Schools, Summers County; J.D. WILLIS, in his individual capacity as Deputy Sheriff, Summers County; JERRY SMITH & B.B. ANGLE, in their individual capacity as City police officers; JOHN PLUMBLEY, in his official capacity as City Police Chief; LESLIE COLMAN & LINVILLE GOINS, in their individual capacities as City Councilmen; RICHARD LORENSEN, in his individual capacity as Special Prosecutor; LAWRENCE LONGANACRE & EDWARD S. HICKS, in their individual capacities as specially assigned Magistrates; LINVILLE GOINS, in his individual capacity as Grand Jury Commissioner; FRANK JOLLIFFE, CHARLES LOBBAN, FRED L. FOX, II, & PAUL ZAKAIB, JR., in their individual capacities as Circuit Court Judges of the Eleventh, Sixteenth & Twelfth Judicial Circuits, respectively; EDITH MEADOR & CATHY S. GASTON, in their

individual capacities as Clerks of the Circuit Court of Summers & Kanawha Counties, respectively; JOYCE RIDDER, in her individual capacity as Clerk of the County Commission; THE WEST VIRGINIA DEPARTMENT OF VETERAN AFFAIRS, in its official capacity; VANA TRAIL, in her individual capacity as appointment scheduler; DAVID ALLEN, Veterans Services Officer, in his individual capacity; STEVE TRAIL, in his individual capacity as County Historian and Department of Public Health Officer; BOEING AEROSPACE CORPORATION, a corporation doing business in the State of Florida; M.R. MILLER & TROOPER O.L. AYERS, & J.R. BUCKALEW, in their individual capacities as State Troopers and Superintendent of the Department of Public Safety; ANCIL G. RAMEY & THOMAS J. MCQUAIN, in their individual capacities of the Clerks of the State Supreme Court of Appeals; JOHN R. ROGERS, in his individual capacity as Director of the West Virginia Public Defender Services; BETTY L. LAMBERT, in her individual capacity as Executive Secretary of the State Judicial Investigation Commission; JACK M. MARDEN, Bar Counsel & CYNTHIA SANTORO GUSTKE, Assist. Disp. Counsel, in their individual capacities as officers of the West Virginia State Bar Association; THE WEST VIRGINIA STATE BAR ASSOCIATION, in its official capacity as the Disciplinary and Licensing Authority, under the State Supreme Court; WILLIAM W. GRACEY, DAVID G. HANLON, ROBERT M. STEPTOE, in their individual capacities as Judges of the West Virginia Claims Court; RICARD GUNNOE, JOHN C. COMETTI, G. EARNEST SKAGGS, in their individual capacities as court-appointed attorneys; LONNIE RAY MULLINS, in his individual capacity as County Commissioner; BOB RICHMOND, FRED D. MOCK, JR., Vice-Presidents First National Bank of Hinton; RICK BLEVINS, Staff-Loan Collections Officer; M.L. ARRINGTON, C. SCOTT BRIERS, DAVID PARMER, IRA WEBB, J.D. WOODRUM, WILLIAM G. MEADOR, JAMES V. COSTE, Board of Directors of the First National Bank of Hinton; J.C. GWINN, J.L. HELSUMS, S.D. MCLEAN, Board of Directors of the National Bank of Summers; THE NATIONAL BANK OF SUMMERS, a financial institution in the City of Hinton; CSX TRANSPORTATION, INC., a corporation a/k/a CSX RAIL TRANSPORT, CSX TRANSPORTATION GROUP; A Hotel Club Owner (White Sulphur); HINTON INSURANCE, MASSEY INSURANCE & YATES INSURANCE, provided liability and fire coverage to local businesses; VFW POST 4500, a veterans organizational post located in the city of Hinton; NICK RAHALL & HARLEY O. STAGGERS & ROBERT BYRD, in their official capacities as W.Va. Representatives & Senator to the U.S. Congress; GEORGE CASTELLE, in his individual capacity as Director of the 12th Judicial Circuit Public Defender's

Office; ARCH MOORE, in his individual capacity as former governor of West Virginia; DAN R. TONKOVICH, LARRY A. TUCKER, C.N. HARMAN, LLOYD G. JACKSON, II, and MARIO J. PALUMBO, in their individual capacities as members of the State Legislatures; UNITED MINE WORKERS, an association of coal mines; BOLTS WILLIS, in his individual capacity as Assist. Admin. Division of Energy; BOB BRUNNER, in his individual capacity as an administrator over the Division of Energy, among others acting on concern therewith,

Defendants-Appellees.

No. 91-3406

ROGER L. CRAWFORD,

Plaintiff-Appellant,

v.

RONALD REAGAN, in his individual capacity as Former President of the United States of America; GEORGE BUSH, in his individual capacity as President of the United States of America,

Defendants-Appellees.

No. 91-3047

ROGER L. CRAWFORD,

Plaintiff-Appellant,

v.

HAROLD C. BYRD, Colonel, FRXXX-XX-XXXX, in his individual capacity as Commander 39th Tactical Group, 1986 (USAFE); GENERAL NELSON, in his individual capacity as Air Force Judge Advocate General (JAG); COLONEL NOLAN SKLUTE, in his individual capacity as Director of Civil Law/JAG; MR.

EVERETTE G. HOPSON, in his individual capacity of Chief, General Law Division (JAG); GENERAL JOHN C. SCHIEDT, FRXXX-XX-XXXX, in his individual capacity as Tuslog Commander, Turkey; COLONEL ANTHONY F. FARINA, FRXXXXX-XXXX & LT. COL. SAMUEL ROSER, XXX-XX-XXXX, in their individual capacities as Staff Judge Advocates, Tuslog, Ankara, Turkey; COLONEL WILLIAM M. DOUGLASS, FRXXX-XX-XXXX, in his individual capacity as 39th Tactical Group Commander (TACG), Incirlik A.B. Turkey; MAJOR EUGENE P. HINDLE, FRXXXXX-XXXX, in his individual capacity as Chief of Security Police 39th TACG; LT. COL. C.L. PRATT, FRXXX-XX-XXXX, CAPTAIN PRESTON W. CAGE, FRXXX-XX-XXXX, in his individual capacity as Chief, Security Police Operations; STAFF SERGEANT M.H. FROST, FRXXX-XX-XXXX, in his individual capacity as Security Police Investigator; MASTER WILLIAM E. MCGEORGE, FRXXX-XX-XXXX, in his individual capacity as Superintendent of Law Enforcement, 39th TACG; COLONEL ROGER C. TAYLOR, FRXXX-XX-XXXX, in his individual capacity as Inspector General (IG), 39th TACG; MASTER SERGEANT L.A. DRAKE, FRXXX-XX-XXXX, in her individual capacity as (IG) Inspector/Investigator; LT. COL. JAMES SAUNDERS, FRXXX-XX-XXXX, in his individual capacity as Deputy Commander for Maintenance, 39th Consolidated Aircraft Maintenance Squadron (CAMS), Incirlik A.B. Turkey; MAJOR JAMES A. BUNYARD, FRXXX-XX-XXXX, in their individual capacities as Equipment Maintenance Division and Chief & Asst. Deputy Commander for Maintenance, 39 CAMS; MAJOR ROBERTA M. CHAPPELL, FRXXX-XX-XXXX, in her individual capacity as Asst. Deputy Commander for Maintenance, 39th CAMS; CAPTAIN ROBERT W. RIDLON, JR., FRXXX-XX-XXXX, in his individual capacity as Section Commander, 39th CAMS; LEE YOUNG, FRXXX-XX-XXXX, in his capacity as First Sergeant, 39 CAMS; MASTER SERGEANT AUGUSTUS S. ROBINSON, FRXXX-XX-XXXX, in his individual capacity as Senior Enlisted Advisor, 39th CAMS/39 TACG; LT. COL. PERRY L. ANDERSON, in his individual capacity as Military Trial Judge; KATHRINE T. MILLER, in her individual capacity as Court Reporter, 6th Military Judicial Circuit Rein Main Air Force Base, Germany; JOHNSTON, in his individual capacity as military defense lawyer; STAFF SERGEANT WILLIAM H. FISHER, FRXXX-XX-XXXX, in his individual capacity as Air Defense Counsel Administrator; CAPTAIN YASTISHOCK, in her individual capacity as court-appointed military defense lawyer; CAPTAIN RALPH BAUER, in his individual capacity as court-appointed military defense lawyer; CAPTAIN LINDSEY GRAMM, in his individual capacity as military trial counsel; LT. JOHN G. GREEN, FRXXX-XX-XXXX, in his individual capacity as asst. military trial counsel; CAPTAIN BRENT EVANS, in his individual capacity as Legal

Staff Officer, 6th Military Judicial Circuit, Incirlik A.B. Turkey; MAJOR MARK A. KINTNER, FRXXX-XX-XXXX, in his individual capacity as Chief, Readiness Division, 39th TACG; LT. COL. ROBERT L. HILL, Congressional Inquiry Division, Office of Legislative Liaison; CAPTAIN RAYMOND M. HESTER, FRXXX-XX-XXXX & SERGEANT KATRINA J. ARABACI, FRXXX-XX-XXXX, in their individual capacities as Separations Section Chief & NCO, 39th TACG; MAJOR ROBINSON KING, in his individual capacity, 39th TACG Logistics Division; MAJOR KENNETH W. SCHORER, FRXXX-XX-XXXX, MASTER SERGEANT FRED B. RAYWORTH, FRXXX-XX-XXXX, in his individual capacity as Quality Assurance Section Chief; LT. COL. TERRY R. HICKS, FRXXX-XX-XXXX, CPT. JAMES W. HOLDEN, FRXXX-XX-XXXX, in their individual capacities as Mental Health Officer & Physical Examinations Chief, U.S. Air Force Hospital, Incirlik A.B. Turkey; DAVID J. GRANDBOIS, FRXXX-XX-XXXX, in his individual capacity as Asst. Aerospace Ground Equipment Branch, 39th CAMS; CAPTAIN THOMAS J. MCLAUCHLIN & STAFF SERGEANT SIMMONS, FRXXX-XX-XXXX, in their individual capacities as Base Social Actions Officers, 39th TACG; LT. COL. TANNER, in his individual capacity as Chief, Base Legal Office; COLONEL GEROGUE WESTOVER, FRXXX-XX-XXXX & COLONEL JOSEPH D. FERRIS, FRXXX-XX-XXXX, in their individual capacities as Incirlik Air Base Commanders; JOHN F. LEGRIS, in his individual capacity as Chief, Personnel Claims (JAG); MELVIN DEV. J.D. HORTON, in his individual capacity as Chief Executive Officer, The Military Justice Clinic, Inc., 960 Martin Luther King, Jr. Drive, S.W., Atlanta, Georgia 30314; DAVID PARMER & G. SYLVESTER TAYLOR, civilian attorney; HINTON & BLUEFIELD, West Virginia; THE WEST VIRGINIA STATE BAR ASSOCIATION, in its official capacity as disciplinary entity over West Virginia Attorneys; MAJOR DONALD J. FISHER, in his individual capacity as CRD Maintenance Chief; SENIOR MSGT. WILLIAM WALL, XXX-XX-XXXX, 39 CAMS/Maintenance Superintendent; SENATOR ROBERT BYRD, individually,

Defendants-Appellees.

No. 91-3048

ROGER L. CRAWFORD,

Plaintiff-Appellant,

and

SIDIKA CRAWFORD; ORHAN KEMAL CRAWFORD; CAN MEHMET CRAWFORD,

Plaintiffs,

v.

SUMMERS COUNTY HOSPITAL, in its official capacity, FBI Agent CASSITY, in his official capacity as Federal Investigator; MR. POKE, in his individual capacity as Private Investigator; WEST VIRGINIA POWER & GAS, a public service entity, among others in concern therewith,

Defendants-Appellees.

No. 91-3049

ROGER L. CRAWFORD,

Plaintiff-Appellant,

and

CITIZENS OF THE UNITED STATES,

Plaintiffs,

v.

RICHARD CHENEY, Secretary of Defense, in his individual capacity as Secretary of Defense; JOHN BETTI, in his individual capacity as Assistant Secretary of Defense for the reformation of arms procurement,

Defendants-Appellees.

Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. Charles H. Haden, II, Chief District Judge. (CA-91-106-5; CA-90-1080-5; CA-90-1113-5; CA-90-1114-5; CA-90-1156-5; CA-90-1166-5)

Submitted: June 3, 1991

Decided: June 24, 1991

Before WIDENER, MURNAGHAN, and NIEMEYER, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

Roger L. Crawford, appellant pro se. Stephen Michael Horn,
Assistant United States Attorney, Charleston, W.Va., for
appellees.

Unpublished opinions are not binding precedent in this circuit.
See I.O.P. 36.5 and 36.6

PER CURIAM:

Roger L. Crawford appeals from the district court's order denying relief under 42 U.S.C. § 1983. Our review of the record and the district court's opinions accepting the recommendation of the magistrate judge discloses that this appeal is without merit.* Accordingly, we affirm on the reasoning of the district court with one modification. The district court adopted the magistrate judge's recommendations that Crawford's actions be dismissed without prejudice, yet the final orders were silent on this point, indicating dismissal with prejudice. To clarify the matter, we modify the judgments to expressly reflect that Crawford's actions were dismissed without prejudice. Crawford v. West Virginia Governor's Office, CA-91-106-5 (S.D.W.Va. Mar. 1,

* **Error! Main Document Only.** The magistrate judge told Crawford he could object to the reports and recommendations within 13 days. The district court, in each case except No. 91-3044, adopted the magistrate judge's recommendations and dismissed the actions after a *de novo* review on the 13th day after the filing date of the reports and recommendations.

Federal Rule of Civil Procedure 6(a) instructs that when the period of time prescribed by a federal statute or rule is less than 11 days, Saturdays, Sundays, and legal holidays are excluded in the time computation. Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b) both provide that a party may object to a magistrate judge's report within ten days.

Crawford served objections (in all but Nos. 91-3045 and 91-3046) on the 14th day after the magistrate judge filed his report but within the ten-day limit as computed under Rule 6(a). The district court therefore dismissed Crawford's complaints prematurely. However, the determination that Crawford's claims are frivolous is a question of law and we find that the error by the district court in this regard was harmless because Crawford's claims are frivolous.

1991); Crawford v. Caperton, CA-90-1080-5 (S.D.W.Va. Feb. 21, 1991); Crawford v. Reagan, CA-90-1113-5 (S.D.W.Va. Feb. 21, 1991); Crawford v. Byrd, CA-90-1114-5 (S.D.W.Va. Feb. 21, 1991); Crawford v. Summers County Hospital, CA-90-1156-5 (S.D.W.Va. Feb. 21, 1991); Crawford v. Citizens of the United States, CA-90-1166-5 (S.D.W.Va. Feb. 21, 1991). 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 AS MODIFIED.