

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-1922

DENNIS W. DEBERRY,

Plaintiff - Appellant,

versus

MARVIN T. RUNYON, JR., Postmaster General,
United States Postal Service,

Defendant - Appellee.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Richard C. Erwin, Senior District Judge. (CA-97-307-2)

Submitted: September 30, 1997

Decided: October 28, 1997

Before HALL, MURNAGHAN, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Dennis W. DeBerry, Appellant Pro Se. Gill Paul Beck, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant appeals from the district court's order denying his motion for default judgment and dismissing his civil action in which he alleged employment discrimination. We have reviewed the record and the district court's opinion and find no reversible error. We note, however, that contrary to the district court's holding, Appellant's complaint was timely filed because it was removed to the district court within ninety days of the EEOC's final decision. See 42 U.S.C. § 2000e-16(c)(1994). Nonetheless, appellant failed to state a claim upon which relief could be granted because he failed to allege any facts supporting his action. Accordingly, we affirm the district court's judgment and order on the grounds that he failed to state a claim. See Fed. R. Civ. P. 12(b)(6).^{*} 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

^{*} The district court did not explicitly discuss the 12(b)(6) aspect of the defendant's motion for dismissal in its order granting the motion.