

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

JAMES H. DICKEY,

Plaintiff-Appellant.

v.

CITY OF HARTSVILLE; MEMBERS OF THE
HARTSVILLE CITY COUNCIL; WILLIE D.
HERBERT, individually and in his
official capacity as city building

No. 97-2434

inspector; BUSINESS LICENSE INSPECTOR,
of the City of Hartsville; WILLIAM F.
BURTON, JR., individually and in his
official capacity as city manager of the
City of Hartsville; MATT CANARRELLA,
individually and as mayor of the City
of Hartsville,
Defendants-Appellees.

JAMES H. DICKEY,

Plaintiff-Appellant.

v.

CITY OF HARTSVILLE; CITY COUNCIL OF

No. 98-1117

NORTH MYRTLE BEACH, Members of the
City Council; WILLIE D. HERBERT,
Individually and in his official capacity
as City Building Inspector;

WILLIAM F. BURTON, JR., Individually
and in his official capacity as City
Manager of the City of Hartsville;
MATT CANARRELLA, Individually and as
Mayor of the City of Hartsville;
WILLCOX, MCLEOD, BUYCK &
WILLIAMS, PA,
Defendants-Appellees.

Appeals from the United States District Court
for the District of South Carolina, at Columbia.
Patrick Michael Duffy, District Judge.
(CA-93-1117-3-23, CA-97-3037-3-10BD)

Submitted: April 28, 1998

Decided: June 18, 1998

Before WILKINS, HAMILTON, and LUTTIG, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

James H. Hickey, Appellant Pro Se. Mark Wilson Buyck, Jr., Robert
Thomas King, WILLCOX, MCLEOD, BUYCK & WILLIAMS, P.A.,
Florence, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

James Dickey appeals from district court orders denying his request to reopen his action brought under 42 U.S.C. § 1983 (1994), and awarding costs and attorney fees to the Appellees. The district court properly dismissed Dickey's action seeking vacatur of the court's prior order granting Defendants summary judgment, as this Court affirmed that order in Dickey v. City of Hartsville, 112 F.3d 508 (4th Cir. 1997) (table), which effectively bars any further pursuit of that action under the res judicata doctrine. See Allen v. McCurry, 449 U.S. 90, 94 (1980). It follows that the district court was also unauthorized to grant Dickey relief on any of his post-judgment motions relating to the dismissed action. Accordingly, we affirm the orders appealed from in case number 98-1117.

In appeal number 97-2434, Dickey challenges the district court's order granting costs and attorney fees in the amount of \$10,000 to Defendants pursuant to 42 U.S.C. § 1988 (1994). An award of costs is proper under the statute if the action was frivolous, unreasonable, or groundless, or if the Plaintiff continued to litigate it after it clearly became so. Christianburg Garment Co. v. EEOC, 434 U.S. 412, 422 (1978). In this case, the district court granted summary judgment after Dickey failed to produce a single piece of evidence supporting his claims of discrimination despite being afforded discovery for three years and liberal access to the Defendants' records.

Accordingly, the district court's order awarding fees and costs is also affirmed. Dickey's motion to correct and/or supplement the record is denied. 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