

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

JOHN PATTON MCGLOTHLIN,

Plaintiff-Appellant.

and

ABDULLAH J. AMEEN; KHALIL
MUSLIMANI; DEWAYNE BELLFIELD;
RANDOLPH ROBINSON; WALI HAKIM
ZAKEE; MUHAMMAD BAKHEIT; TROY
HEATH; FREDERICK MIT-CHELLE;
FRANK L. OLIVER; GREG DAVIS;
JAMES DANDRIDGE; JACK RAMSEY;
ROBERT LEE CONNER; RUDOLPH
WASHINGTON; J. BATTLE,
Plaintiffs.

No. 97-6449

v.

EDWARD MURRAY; JOHN DOES; JANE
DOES; RON ANGELONE; WARDEN
THOMPSON; HOLLAR, Assistant
Warden; MAY D. CAMPBELL; T.
STEWART; LAWHON, Assistant
Warden; CHAPLAIN ROEPKE; LARRY
HUFFMAN,
Defendants-Appellees.

and

CHAPLAIN AUSTIN,
Defendant.

JOHN PATTON MCGLOTHLIN,
Plaintiff-Appellant,

and

ABDULLAH J. AMEEN; KHALIL
MUSLIMANI; DEWAYNE BELLFIELD;
RANDOLPH ROBINSON; WALI HAKIM
ZAKEE; MUHAMMAD BAKHEIT; TROY
HEATH; FREDERICK MIT-CHELLE;
FRANK L. OLIVER; GREG DAVIS;
JAMES DANDRIDGE; JACK RAMSEY;
ROBERT LEE CONNER; RUDOLPH
WASHINGTON; J. BATTLE,
Plaintiffs,

No. 97-6634

v.

EDWARD MURRAY; JOHN DOES; JANE
DOES; RON ANGELONE; WARDEN
THOMPSON; HOLLAR, Assistant
Warden; MAY D. CAMPBELL; T.
STEWART; LAWHON, Assistant
Warden; CHAPLAIN ROEPKE; LARRY
HUFFMAN,
Defendants-Appellees,

and

CHAPLAIN AUSTIN,
Defendant.

Appeals from the United States District Court
for the Western District of Virginia, at Roanoke.
James H. Michael, Jr., Senior District Judge.
(CA-93-981-R)

Submitted: June 9, 1998

Decided: July 1, 1998

Before WIDENER, MURNAGHAN, and WILLIAMS,
Circuit Judges.

No. 97-6449 affirmed and No. 97-6634 vacated and remanded by
unpublished per curiam opinion.

COUNSEL

John Patton McGlothlin, Appellant Pro Se. Pamela Anne Sargent,
Assistant Attorney General, Richmond, Virginia; Rosalie Vaughan
Pemberton, TIMBERLAKE, SMITH, THOMAS & MOSES, P.C.,
Staunton, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

In No. 97-6449, Appellant appeals from the district court's order denying relief on his 42 U.S.C. § 1983 (1994) complaint. We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. Accordingly, we affirm on the reasoning of the district court. McGlothlin v. Murray, No. CA-93-981-R (W.D. Va. Feb. 13, 1997).

In No. 97-6634, Appellant appeals from the district court's order awarding attorney's fees to the Defendants pursuant to 42 U.S.C.A. § 1988(b) (West 1994 & Supp. 1998). Our review of the record reveals that the district court failed to consider the twelve factors identified in Johnson v. Georgia Highway Express, 488 F.2d 714 (5th Cir. 1974), when assessing the amount of the fee award. The district

court therefore abused its discretion, and we vacate the order of the district court and remand for application of the Johnson factors. See Trimper v. City of Norfolk, 58 F.3d 68, 73 (4th Cir. 1995).

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. The motion to amend the informal brief is granted.

No. 97-6449 -- AFFIRMED

No. 97-6634 -- VACATED AND REMANDED