

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 98-7792**

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MICHAEL ERNEST HOPPER,

Plaintiff - Appellant,

versus

MICHAEL F. EASLEY; PETER GILCHRIST; ROBERTA  
TEPPER; LUKE LARGISS,

Defendants - Appellees.

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Appeal from the United States District Court for the Western Dis-  
trict of North Carolina, at Charlotte. Graham C. Mullen, Chief  
District Judge. (CA-98-285-3-1-MU)

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Submitted: April 29, 1999

Decided: May 4, 1999

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Before WILLIAMS, TRAXLER, and KING, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Michael Ernest Hopper, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Michael Ernest Hopper appeals the district court's order denying relief on his 42 U.S.C.A. § 1983 (West Supp. 1998) complaint. We affirm, though on different reasoning than that employed by the district court. See Hopper v. Easley, No. CA-98-285-3-1-MU (W.D.N.C. Oct. 29, 1998).<sup>\*</sup> Hopper claimed that his habitual offender conviction was invalid because he was not informed that a previous nolo contendere plea would count toward habitual offender status. However, because the conviction has not been overturned, Hopper's § 1983 claim has not yet accrued. See Heck v. Humphrey, 512 U.S. 477, 489-90 (1994); Preiser v. Rodriguez, 411 U.S. 475, 500 (1973). 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

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<sup>\*</sup> Although the district court's order is marked as "filed" on October 7, 1998, the district court's records show that it was entered on the docket sheet on October 29, 1998. Pursuant to Rules 58 and 79(a) of the Federal Rules of Civil Procedure, it is the date that the order was entered on the docket sheet that we take as the effective date of the district court's decision. See Wilson v. Murray, 806 F.2d 1232, 1234-35 (4th Cir. 1986).