

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6308

JERRY JACKSON,

Plaintiff - Appellant,

versus

J. V. SMITH, Warden; J. SERRANO, MD; L.
ROGERS, I.C.C.I.D.P.; K. WALKER, PA; A. SAHA,
PA; H. WATTS, Board of Appeals; JOHN L.
LAMANNA, Warden; LOUISA FUERTES-ROSARIO; FNU
SERO,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Greenville. G. Ross Anderson, Jr., District
Judge. (6:04-cv-02190-GRA)

Submitted: June 16, 2006

Decided: June 26, 2006

Before WILKINSON, TRAXLER, and SHEDD, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Jerry Jackson, Appellant Pro Se. Barbara Murcier Bowens, OFFICE OF
THE UNITED STATES ATTORNEY, Columbia, South Carolina, for
Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jerry Jackson, a federal inmate, appeals from the district court's order adopting the recommendation of the magistrate judge and denying relief in Jackson's Bivens¹ action. Although we express no opinion regarding the merits of Jackson's suit, we remand for further proceedings.

The magistrate judge's recommendation was entered on January 10, 2006. Within the time period for filing objections, Jackson filed a motion for an extension of time in which to file objections. We find no abuse of discretion in the district court's denial of Jackson's motion. Fed. R. Civ. P. 6(b); see Carefirst of Md., Inc. v. Carefirst Pregnancy Ctrs., Inc., 334 F.3d 390, 396 (4th Cir. 2003) (holding that this court reviews for abuse of discretion a district court's denial of Rule 6(b) motion for extension of time).

Timely objections were due by January 30.² The district court adopted the magistrate judge's recommendation and granted summary judgment in favor of Defendants on February 2. On February 6, Jackson submitted undated objections to the magistrate judge's report and recommendation, bearing a certificate of service of January 27, and postmarked January 31. The district court denied the objections, finding that they were untimely and moot.

¹Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971).

²In its order denying Jackson's motion for an extension of time to file objections to the magistrate judge's report and recommendation, the district court erroneously stated that the objections were due on January 27.

Under Houston v. Lack, 487 U.S. 266, 276 (1988), Jackson's objections were deemed filed when they were handed to prison officials for mailing. It is unclear from the record whether Jackson's objections were filed prior to the expiration of the objection period.

Accordingly, we remand for a determination of the date Jackson filed his objections. The case will then be returned to this court for further proceedings. 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.

VACATED AND REMANDED