

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-1503**

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ESTATE OF PEOLA WINGFIELD, DECEASED, By and Through His  
Administratrix, Edna K. Thompson,

Plaintiff - Appellant,

v.

JACK FREUND, M.D., Individually and In His Official Capacity  
as Medical Director for the Division of Medical Services for  
the Jail; ROBERT E. CURTIS, M.D., Individually; WILLIAM  
RHOADES, Dr., PH.D., Individually and In His Official  
Capacity as Psychologist and Employee of the Richmond City  
Jail; JAMES O. WOMACK, Captain, Individually and In His  
Official Capacity as an Employee of the Richmond City Jail;  
DERRICK MCGEE, Individually and In His Official Capacity as  
an Employee of the Richmond City Jail,

Defendants - Appellees,

and

MICHELLE B. MITCHELL, Individually and In Her Official  
Capacity as Sheriff of the City of Richmond; DOCTOR CHANG,  
M.D., Individually and In His Official Capacity as an  
Employee of the Richmond City Jail; ZELDA JOHNSON, M.D.,  
Individually and In His Official Capacity as an Employee of  
the Richmond City Jail; SERGEANT CUSHIONBERRY, Individually  
and In His Official Capacity as an Employee of the Richmond  
City Jail; SERGEANT WILKINS, Individually and In His  
Official Capacity as an Employee of the Richmond City Jail;  
HERBERT R. ANDERSON, Individually and In His Official  
Capacity as an Employee of the Richmond City Jail; NURSE  
SMITH, Individually and In His Official Capacity as an  
Employee of the Richmond City Jail; NURSE MILLS,  
Individually and in His Official Capacity as an Employee of  
the Richmond City Jail; WARNER LIPSCOMB, Individually and In  
His Official Capacity as an Employee of the Richmond City

Jail; JERON BROOKS, Individually and In His Official  
Capacity as an Employee of the Richmond City Jail,

Defendants.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Richmond. M. Hannah Lauck, Magistrate  
Judge. (3:06-cv-00247-MHL)

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Submitted: January 25, 2010

Decided: February 12, 2010

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Before WILKINSON and KING, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Vacated and remanded by unpublished per curiam opinion.

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JeRoyd W. Greene, III, ROBINSON & GREENE, Richmond, Virginia,  
for Appellant. John A. Gibney, Jr., THOMPSONMCMULLAN, P.C.,  
Richmond, Virginia; Alexander N. Simon, Richmond, Virginia;  
Ramon Rodriguez, III, RAWLS & MCNELIS, PC, Richmond, Virginia,  
for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

The Estate of Peola Wingfield appeals the magistrate judge's order granting summary judgment to Defendants Dr. Jack Freund, Medical Director for the Division of Medical Services for the Richmond City Jail ("the Jail"); Dr. Robert Curtis, a psychiatrist under contract with the Jail; Dr. William Rhoades, a psychologist employed by the Jail; Captain James Womack, Medical Director of the Jail's medical department; and Nurse Derrick McGee, a physician's assistant and licensed practical nurse for the Jail. Wingfield raises numerous issues on appeal. Because we find that the magistrate judge lacked jurisdiction to enter a final order, however, we decline to address the merits at this time. Rather, we vacate the magistrate judge's order granting summary judgment and remand for further proceedings.

A magistrate judge may enter a final appealable judgment only if the district court has properly referred the case to the magistrate judge and the parties consent to have the magistrate judge enter a final judgment. 28 U.S.C. § 636(c)(1) (2006). "[C]onsent to proceed before a magistrate judge must be clear, unequivocal, and unambiguous." United States v. Bryson, 981 F.2d 720, 723 (4th Cir. 1992). Though this case was referred to a magistrate judge by the district court, we have found no evidence in the record establishing that the parties consented to final disposition by a magistrate judge, as

required by 28 U.S.C. § 636(c). Thus, the magistrate judge lacked jurisdiction to enter a final, appealable order. See Bryson, 981 F.2d at 726; see also Gomez v. United States, 490 U.S. 858, 870 (1989) ("A critical limitation on [the magistrate judge's] expanded jurisdiction is consent."). Accordingly, we vacate the dispositional order entered by the magistrate judge and remand this case 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