

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 20-6425**

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DANIEL L. ALLEN,

Plaintiff - Appellant,

v.

R. DAVID MITCHELL; TIMOTHY J. MCKOY; KEVIN A. BARNES; LARRY M.  
DUNSTON; SHELTON E. ROGERS; JUANITA R. JAMES; MARANDA C.  
MIMS; COLBERT L. RESPASS,

Defendants - Appellees,

and

FRANK L. PERRY; ROBERT D. FOUNTAIN; TERRY J. LEMON; JERRY L.  
CRAWFORD; CHRISTOPHER B. RICH; GEORGE T. SOLOMON,

Defendants.

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Appeal from the United States District Court for the Eastern District of North Carolina, at  
Raleigh. Louise W. Flanagan, District Judge. (5:16-ct-03113-FL)

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Submitted: March 22, 2021

Decided: March 29, 2021

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Before GREGORY, Chief Judge, and KEENAN and THACKER, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Daniel L. Allen, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniel L. Allen appeals the district court's order and judgment granting Defendants' motion for summary judgment and dismissing Allen's 42 U.S.C. § 1983 civil rights complaint. The court's order granting summary judgment may be affirmed on any ground appearing in the record, "including theories not relied upon or rejected by the district court." *Scott v. United States*, 328 F.3d 132, 137 (4th Cir. 2003). We conclude that Allen's claims are barred by North Carolina's three-year statute of limitations. *See Wallace v. Kato*, 549 U.S. 384, 387 (2007) (noting length of statute of limitations in § 1983 action determined by state law); *Brooks v. City of Winston-Salem*, 85 F.3d 178, 181 (4th Cir. 1996) (applying North Carolina's three-year statute of limitations for § 1983 action). Allen's claims accrued at the latest on May 20, 2010, the date of his second disciplinary hearing. Allen filed his complaint at the earliest on May 7, 2016, the date Allen signed his original complaint, clearly three years beyond the accrual date for statute of limitation purposes.

Accordingly, we affirm the district court's order and judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*