

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-6175**

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DANIEL WATLINGTON,

Plaintiff - Appellant,

v.

DEBBIE CARTER; MARSHAL GEORGE BENYA,

Defendants - Appellees,

and

SHARON L. JOHNSON; SERGEANT BAILEY,

Defendants.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Louise W. Flanagan, Chief District Judge. (5:05-ct-00761-FL)

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Submitted: September 11, 2008

Decided: September 16, 2008

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

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Affirmed by unpublished per curiam opinion.

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Daniel Watlington, Appellant Pro Se. E. Holt Moore, III, Wilmington, North Carolina; Steve R. Matheny, Assistant United States Attorney, Raleigh, North Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniel Watlington appeals the district court's order denying relief on his complaint filed pursuant to Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), and 42 U.S.C. § 1983 (2000). He contends that Defendant Carter failed to timely file her motion for summary judgment, so the district court erred in considering that motion. However, the motion was timely in accordance with Fed. R. Civ. P. 56(c). Similarly, Defendant Benya's motion to dismiss or for summary judgment was filed within the extension period granted by the district court, and thus is deemed timely. Accordingly, we affirm. Watlington v. Johnson, No. 5:05-ct-00761-FL (W.D.N.C. Jan. 8, 2008). 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