

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7759

MICHAEL R. RAY,

Plaintiff - Appellant,

v.

JAMES METTS, Sheriff Lexington County Sheriff's Department;
JIMMY GREGG; MIKE D. ILLES, Administrator Florence County
Detention Center; JUNE STEWART, Employee FCDC; FLORENCE
COUNTY, A Body Politic; LEXINGTON COUNTY,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Florence. Terry L. Wooten, District Judge.
(4:04-cv-23048-TLW)

Submitted: April 29, 2010

Decided: May 3, 2010

Before MOTZ and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.

Michael R. Ray, Appellant Pro Se. William Henry Davidson, II,
Daniel C. Plyler, DAVIDSON, MORRISON & LINDEMANN, PA, Columbia,
South Carolina, David Leon Morrison, MORRISON LAW FIRM, LLC,
Columbia, South Carolina; Benjamin Albert Barody, BELLAMY,
RUTENBURG, COPELAND, EPPS, GRAVELY & BOWERS, PA, Myrtle Beach,
South Carolina; Jay Ritchie Lee, AIKEN, BRIDGES, NUNN, ELLIOTT &
TYLER, PA, Florence, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael R. Ray appeals the district court's order allowing Appellees to file a corrected Suggestion of Death, pursuant to Fed. R. Civ. P. 25, and its adverse grant of summary judgment and dismissal of his action filed pursuant to 42 U.S.C. § 1983 (2006). Specifically, as to the second order, Ray challenges the district court's grant of summary judgment without considering his motion for summary judgment and after allegedly restricting his ability to undertake discovery. We affirm both orders.

We find no abuse of the district court's discretion in allowing the Suggestion of Death to be corrected by Appellees to conform to Fed. R. Civ. P. 25, especially given that Ray failed to demonstrate how the purported error affected any of his substantial rights. Nor do we find any abuse of the district court's discretion relative to discovery prior to its adoption of the report and recommendation of the magistrate judge and its ruling on the motion for summary judgment. See Strag v. Bd. of Trs., 55 F.3d 943, 952-53 (4th Cir. 1995) (standard of review).*

* Ray's assertion of district court error in failing to consider his motion for summary judgment is without merit. The magistrate judge specifically reviewed Ray's motion and found, correctly, that it merely constituted a request for additional discovery.

Accordingly, we affirm the district court's order allowing the correction of the Suggestion of Death, and its dismissal of Ray's action on summary judgment, on the reasoning of the district court. 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