

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7906

CECIL SIMMONS, a/k/a Cecil Allen Simmons,
Plaintiff - Appellant,

v.

DIRECTOR OZMINT; CAPTAIN BRIHART; DEBORAH ROWE, Hearing
Officer; MR. BURTT,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Greenville. R. Bryan Harwell, District
Judge. (6:08-cv-00860-RBH)

Submitted: January 14, 2010

Decided: January 22, 2010

Before MOTZ, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Cecil Simmons, Appellant Pro Se. William Henry Davidson, II,
Matthew Blaine Rosbrugh, DAVIDSON & LINDEMANN, PA, Columbia,
South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Cecil Simmons seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 42 U.S.C. § 1983 (2006) complaint. Simmons, who filed a motion for reconsideration with the district court pursuant to Fed. R. Civ. P. 59(e) prior to filing his notice of appeal, requests only that this court remand the case to the district court so he may re-file objections to the magistrate judge's report and recommendation after his initial objections were destroyed in the mail. However, the district court has granted Simmons's motion and given him the opportunity to file his objections. Accordingly, we dismiss the appeal as moot. 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.

DISMISSED