

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7488

ROY ALLEN ROBERTS,

Plaintiff - Appellant,

v.

CORPORAL CHARLIE SUMNER,

Defendant - Appellee,

and

CAPTAIN GREGORY PEAKE,

Defendant.

Appeal from the United States District Court for the District of
South Carolina, at Florence. Timothy M. Cain, District Judge.
(5:11-cv-00002-TMC)

Submitted: January 17, 2013

Decided: February 15, 2013

Before KEENAN, DIAZ, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Roy Allen Roberts, Appellant Pro Se. Stephanie Holmes Burton,
GIBBES & BURTON, LLC, Spartanburg, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Roy Allen Roberts, a South Carolina inmate, filed a 42 U.S.C. § 1983 (2006) action against Defendants Charlie Sumner, a former employee of the South Carolina Department of Corrections ("SCDC"), and his former supervisor, Gregory Peake. Roberts alleged that the Defendants violated his due process rights and defamed him in connection with Roberts's disciplinary conviction.* The district court adopted the magistrate judge's recommendation to grant summary judgment in favor of Sumner on Roberts's due process claim and to refuse supplemental jurisdiction over the remaining state law claim. Roberts appeals, and we affirm.

On appeal, Roberts first challenges the district court's refusal to grant his motions to compel and for a subpoena duces tecum. This court reviews a district court's discovery rulings for abuse of discretion. Carefirst of Md., Inc. v. Carefirst Pregnancy Ctrs., Inc., 334 F.3d 390, 396 (4th Cir. 2003). We conclude that the district court did not abuse its discretion in refusing to grant these motions. Fed. R. Civ. P. 26(b)(1), 34(a).

* Peake is not a party to the present appeal, and Roberts does not challenge on appeal the court's dismissal of claims against Peake. See 4th Cir. R. 34(b) (indicating that arguments not raised in informal brief are waived).

Roberts further argues that the district court erred in considering the affidavit of two officers included with Sumner's motion for summary judgment. Because this argument is made for the first time on appeal, it is not properly before this court. See Muth v. United States, 1 F.3d 246, 250 (4th Cir. 1993) (stating that issues raised for first time on appeal generally are not considered absent exceptional circumstances).

Roberts also challenges the district court's conclusion that he was provided all process constitutionally due him during his disciplinary proceeding. We have thoroughly reviewed the record in this case and conclude that the district court committed no reversible error in granting summary judgment as to Roberts's due process claim. Accordingly, we affirm on this issue substantially for the reasons stated by the district court. Roberts v. Sumner, No. 5:11-cv-00002-TMC (D.S.C. Aug. 23, 2012).

In summary, then, we decline to disturb the district court's judgment. We further deny Roberts's motion for appointment of counsel. 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