

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7591

KELVIN A. CANADA,

Plaintiff - Appellant,

v.

LIEUTENANT ROUNTREE; WILLIAM C. LANE, Lieutenant; CAPTAIN WHITEHEAD; J. MAYO, Officer; OFFICER GOODRICH; OFFICER BAINES; OFFICER ASKEW; OFFICER ADAMS; M. WOODRUFF, Nurse; L. O'NEAL, Nurse,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Henry Coke Morgan, Jr., Senior District Judge. (2:13-cv-00013-HCM-TEM)

Submitted: February 26, 2016

Decided: May 31, 2016

Before NIEMEYER, AGEE, and HARRIS, Circuit Judges.

Affirmed in part; vacated and remanded in part by unpublished per curiam opinion.

Kelvin A. Canada, Appellant Pro Se. Margaret Hoehl O'Shea, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richard Carson Vorhis, Senior Assistant Attorney General; Elizabeth Martin Muldowney, RAWLS, MCNELIS & MITCHELL, PC, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kelvin A. Canada, a Virginia inmate, appeals the district court's order denying relief on his 42 U.S.C. § 1983 (2012) complaint alleging excessive force and deliberate indifference to a serious medical need. The district court granted summary judgment to all the Defendants, with the exception of Nurse L. O'Neal, who was never located and therefore dismissed without prejudice. We review the district court's grant of summary judgment *de novo*, viewing the facts and the reasonable inferences therefrom in the light most favorable to the nonmoving party. Bonds v. Leavitt, 629 F.3d 369, 380 (4th Cir. 2011). We have reviewed the record and find no reversible error regarding the grant of summary judgment to Nurse M. Woodruff. Accordingly, we affirm for the reasons stated by the district court, for this portion of the district court's order. See Canada v. Rountree, No. 2:13-cv-00013-HCM-TEM (E.D. Va. Sept. 21, 2015).

With regard to the remaining Defendants, except for L. O'Neal, we vacate the district court's order granting summary judgment and remand for review of the videotape evidence sought by Plaintiff Kelvin Canada. Given the nature of Canada's excessive force claim, we are unable to conduct effective appellate review on the present record. Accordingly, we remand with instructions that Canada's motion for discovery of

videotape evidence be granted, so that the district court may consider the case with all relevant evidence before it. See McMillian v. Wake Cty. Sheriff's Dep't, 399 F. App'x 824, 829 (4th Cir. 2010) (remanding for consideration of videotape evidence in excessive force case against prison officials).

Canada also has filed motions with this court for discovery, to schedule oral argument, and for *prima facie* evidence. Those motions are denied. 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 IN PART;
VACATED AND REMANDED IN PART