

No. DA 06-0079

IN THE SUPREME COURT OF THE STATE OF MONTANA

2006 MT 327N

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RONALD W. VAUGHN, JR.,

Plaintiff and Appellant,

v.

GALLATIN COUNTY, et al.

Defendant and Respondent.

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APPEAL FROM: The District Court of the Eighteenth Judicial District,  
In and For the County of Gallatin, Cause No. DV 2004-326,  
Honorable Holly B. Brown, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Ronald W. Vaughn, Jr., (pro se), Deer Lodge, Montana

For Respondent:

Kristin N. Hansen, Moore, O'Connell & Refling, P.C., Bozeman, Montana

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Submitted on Briefs: November 1, 2006

Decided: December 12, 2006

Filed:

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Clerk

Justice James C. Nelson delivered the Opinion of the Court.

¶1 Pursuant to Section 1, Paragraph 3(d)(v), Montana Supreme Court 1996 Internal Operating Rules, as amended in 2003, the following memorandum decision shall not be cited as precedent. Its case title, Supreme Court cause number and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Ronald Vaughn, Jr., an inmate at the Montana State Prison, appeals, *pro se*, from the District Court's September 30, 2005 Order and Opinion Granting Defendant's Motion for Summary Judgment; Order Dismissing Plaintiff's Complaint With Prejudice.

¶3 In this cause, Vaughn filed a *pro se* complaint against Gallatin County and the Gallatin County Public Defenders Office alleging that his right to attorney-client confidentiality had been violated by the Defendants. Vaughn amended his complaint and added a claim for violation of his right to equal protection of the laws. The Defendants answered and, ultimately, moved for summary judgment. The Public Defenders Office was dismissed from Vaughn's suit on April 27, 2005, and on September 30, 2005, the District Court granted the remaining defendant Gallatin County's summary judgment motion and dismissed Vaughn's suit with prejudice.<sup>1</sup>

¶4 Vaughn filed his lawsuit claiming that, while he was incarcerated at the Gallatin County Detention Center, his calls to his former attorney at the Public Defenders Office were recorded. It appears that during maintenance of the Gallatin County Detention Center's phone system, EVERCOM deleted the "private" parameters which had been

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<sup>1</sup> While it appears that EVERCOM Phone Systems was a named defendant in Vaughn's lawsuit, the record reflects that EVERCOM was never served with a summons, nor did it ever appear in the lawsuit.

assigned to the telephone number of the Gallatin County Public Defenders Office as well as for the numbers of various inmates' private attorneys. Calls made by an inmate were preceded by a warning tag line that stated: "This telephone conversation is recorded and may be monitored by department staff."

¶5 Having reviewed the record in this case, we determine that the District Court did not err in granting the Defendant summary judgment, as no genuine issues of material fact existed and because Defendants were entitled to summary judgment as a matter of law. We also conclude that the District Court did not err in dismissing Vaughn's § 1983 claims for failure to show any injury. And, finally, we conclude that Vaughn was not improperly denied access to the courts for lack of accurate, adequate legal resources at the Gallatin County Jail.

¶6 We have determined to decide this case pursuant to Section 1, Paragraph 3(d) of our 1996 Internal Operating Rules, as amended in 2003, which provides for memorandum opinions. It is manifest on the face of the briefs and the record before us that the appeal is without merit because the court's findings of fact are supported by substantial evidence, and because the legal issues are clearly controlled by settled Montana law which the District Court correctly interpreted.

¶7 Accordingly, we affirm the District Court's Order and Opinion Granting Defendant's Motion for Summary Judgment; Order Dismissing Plaintiff's Complaint With Prejudice.

/S/ JAMES C. NELSON

We Concur:

/S/ KARLA M. GRAY

/S/ W. WILLIAM LEAPHART

/S/ JOHN WARNER

/S/ BRIAN MORRIS