

[NOT FOR PUBLICATION--NOT TO BE CITED AS PRECEDENT]

United States Court of Appeals For the First Circuit

No. 01-1557

GORDON C. REID,
Plaintiff, Appellant,

v.

GARY SIMMONS, ET AL.,
Defendants, Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE
[Hon. Steven J. McAuliffe, U.S. District Judge]

Before
Boudin, Chief Judge,
Torruella and Lipez, Circuit Judges.

Gordon C. Reid on brief pro se.
Robert G. Whaland and McDonough & O'Shaughnessy, P.A. on brief
for appellee.

September 25, 2002

Per Curiam. Pro se appellant Gordon Reid appeals a district court decision which granted judgment as a matter of law to appellee Simmons on Reid's 42 U.S.C. § 1983 claim for the failure to disclose exculpatory impeachment evidence. We have thoroughly reviewed the record and the parties' briefs on appeal. While we are not in complete agreement with the district court's thoughtful opinion, we agree that the evidence was insufficient as a matter of law to prove that Simmons failed to disclose the evidence in issue either deliberately or with reckless indifference to Reid's constitutional rights.¹ Accordingly, appellant's motion to correct the record is denied, and the judgment of the district court is affirmed. See Local Rule 27(c).

¹ We reject Reid's contention that Simmons is procedurally barred from obtaining judgment as a matter of law (JMOL) because he failed to renew his motion for JMOL after resting. See, e.g., Douglas County Bank v. United Financial, Inc., 207 F.3d 473, 477 (8th Cir. 2000), Alcatel USA, Inc. v. DGI Technologies, 166 F.3d 772, 780-81 (5th Cir. 1999), Pittsburgh-Des Moines Steel Co. v. Brookhaven Manor Water Co., 532 F.2d 572, 575-77 (7th Cir. 1976).