

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6626

CLEMMON AUGUSTA WOODARD,

Plaintiff - Appellant,

v.

SHERIFF DONNIE HARRISON; MEDICAL STAFF OF WAKE COUNTY JAIL,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. James C. Dever III,
District Judge. (5:08-ct-03177-D)

Submitted: October 13, 2011

Decided: October 17, 2011

Before SHEDD, AGEE, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Clemmon Augusta Woodard, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Clemmon Augusta Woodard seeks to appeal the district court's dismissal of his 42 U.S.C. § 1983 (2006) complaint without prejudice because he failed to comply with the district court's order to particularize his complaint. Generally, a district court's dismissal of a complaint without prejudice is not appealable. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1067 (4th Cir. 1993) (holding that "a plaintiff may not appeal the dismissal of his complaint without prejudice unless the grounds for dismissal clearly indicate that no amendment [in the complaint] could cure the defects in the plaintiff's case") (alteration in original) (internal quotation marks omitted). "However, . . . if the grounds of the dismissal make clear that no amendment could cure the defects in the plaintiff's case, the order dismissing the complaint is final in fact and [appellate jurisdiction exists]." Id. at 1066 (alteration in original) (internal quotation marks omitted).

In this case, Woodard may be able to save his action by amending his complaint to comply with the district court's order to particularize. Therefore, the district court's dismissal of Woodard's complaint without prejudice is not an appealable final order. Accordingly, we dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the

materials before the court and argument would not air the decisional process.

DISMISSED