

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7751

JAMES LESTER ROUDABUSH, JR.,

Plaintiff - Appellant,

v.

D. LAWHORNE; F. MILANO,

Defendants - Appellees,

and

SERGEANT F. MENSAH; STEARNS, Chief; G. HUNTER; C. M. KYLTON;
ERVIN; GRAHAM; HYLTON; J. CAREY; A. ANDERSON; K. PEDERSEN;
LIEUTENANT REA,

Defendants.

Appeal from the United States District Court for the Eastern District of Virginia, at
Norfolk. Rebecca Beach Smith, Chief District Judge. (2:15-cv-00083-RBS-RJK)

Submitted: April 24, 2017

Decided: May 4, 2017

Before NIEMEYER and DIAZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed and remanded with instructions by unpublished per curiam opinion.

James Lester Roudabush, Jr., Appellant Pro Se. Alexander Francuzenko, Philip Corliss Krone, Lee B. Warren, COOK CRAIG & FRANCUZENKO, PLLC, Fairfax, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Lester Roudabush, Jr., seeks to appeal the district court's November 16, 2015 order dismissing a portion of the claims raised in his civil action pursuant to 28 U.S.C. § 1915A(b)(1) (2012) and dismissing without prejudice his claims concerning law library access and medical treatment for high blood pressure, May 13, 2016 order denying his motion for summary judgment as premature, and November 29, 2016 order granting summary judgment to Appellees Lawhorne and Milano. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2012), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2012); Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-47 (1949).

“An order dismissing a complaint without prejudice is not an appealable final order under § 1291 if the plaintiff could save his action by merely amending his complaint.” *Goode v. Cent. Va. Legal Aid Soc’y*, 807 F.3d 619, 623 (4th Cir. 2015) (internal quotation marks omitted). Where the district court dismisses an action for failure to plead sufficient facts in the complaint, we lack appellate jurisdiction because the plaintiff could amend the complaint to cure the pleading deficiency. *Id.* at 623-25.

The orders Roudabush seeks to appeal are neither final orders nor appealable interlocutory or collateral orders. Accordingly, we dismiss the appeal and remand the case to the district court with instructions to allow Roudabush leave to amend his claims concerning law library access and medical treatment for high blood pressure. 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.

DISMISSED AND REMANDED WITH INSTRUCTIONS