

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6634

RICHARD MANIGAULT,

Plaintiff - Appellant,

v.

ALBERT HOUSEY, Lieutenant,

Defendant - Appellee,

and

RYAN GRANT, Corporal; DUSTIN CROSBY, Officer; GARY EICHELBERGER,
Major; VALERIE JACKSON, Captain/Disciplinary Hearing Officer; LEVERN
COHEN, Warden,

Defendants.

Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Joseph F. Anderson, Jr., Senior District Judge. (0:15-cv-04647-JFA)

Submitted: March 15, 2018

Decided: March 30, 2018

Before MOTZ, AGEE, and THACKER, Circuit Judges.

Dismissed and remanded with instructions by unpublished per curiam opinion.

Richard Manigault, Appellant Pro Se. Otto Edworth Liipfert, III, GRIFFITH, FREEMAN & LIIPFERT, LLC, Beaufort, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Richard Manigault seeks to appeal the district court's judgment entered in his 42 U.S.C. § 1983 civil rights action. The judgment was entered in accordance with the jury's verdict in favor of Defendant Housey following a trial, the district court's March 24, 2017, order granting summary judgment in favor of Defendants Grant and Crobsy, and the district court's March 1, 2016, order dismissing the action without prejudice as against Defendants Eichelberger, Jackson, and Cohen for failure to state a cognizable claim against them. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291, and certain interlocutory and collateral orders, 28 U.S.C. § 1292; 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, Inc.*, 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 judgment Manigault seeks to appeal is neither a final judgment nor an appealable interlocutory or collateral judgment. Accordingly, we dismiss the appeal and remand the case to the district court with instructions to allow Manigault leave to amend his complaint as against Defendants Eichelberger, Jackson, and Cohen. We deny Manigault's motions to appoint counsel and 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