

**ON PETITION FOR REHEARING
UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6653

LAMARR BARTHELL DINGLE,

Petitioner - Appellant,

v.

DIRECTOR OF THE DEPARTMENT OF CORRECTIONS,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge. (1:16-cv-00023-GBL-IDD)

Submitted: September 27, 2017

Decided: October 4, 2017

Before DUNCAN and WYNN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Lamarr Barthell Dingle, Appellant Pro Se. Leah A. Darron, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lamarr Barthell Dingle appeals the district court's order denying his motion to order a third party to submit an affidavit in Dingle's habeas proceeding. We dismiss the appeal as interlocutory.*

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, 545-46 (1949). The order Dingle seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we deny leave to proceed in forma pauperis and 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 this court and argument would not aid the decisional process.

DISMISSED

* In a prior opinion we construed Dingle's appeal as challenging the district court's dismissal of his § 2254 petition. However, we later determined that Dingle's appeal was misdocketed through no fault of his own, and we have exercised our inherent authority to recall the mandate in this appeal and sua sponte granted rehearing by separate order. See *Calderon v. Thompson*, 523 U.S. 538, 549-50 (1998).