

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-7605

ERIN PROCTOR,

Plaintiff - Appellant,

v.

ISRAEL HAMILTON, Warden; JOHN WALRATH, Acting Regional
Administrator; HEARING OFFICER MAYO, Hearing Officer; J.D. FAIRMAN,
Correctional Officer/C.O.; E. WITT, Grievance Counselor,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at
Alexandria. T.S. Ellis, III, Senior District Judge. (1:19-cv-00275-TSE-MSN)

Submitted: March 9, 2020

Decided: March 17, 2020

Before GREGORY, Chief Judge, and KING and DIAZ, Circuit Judges.

Dismissed and remanded by unpublished per curiam opinion.

Erin Dean Proctor, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Erin Proctor seeks to appeal the district court's order dismissing without prejudice his 42 U.S.C. § 1983 (2018) action under 28 U.S.C. § 1915A(b)(1) (2018). Specifically, the district court concluded that Proctor failed to state what liberty or property interest he possessed and was deprived of as a result of the alleged adverse decisions. *See Wilkinson v. Austin*, 545 U.S. 209, 221 (2005) (“The Fourteenth Amendment’s Due Process Clause protects persons against deprivations of life, liberty, or property; and those who seek to invoke its procedural protections must establish that one of these interests is at stake.”).

We may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2018), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2018); Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). “An order dismissing a complaint without prejudice is not an appealable final order under § 1291 if ‘the plaintiff could save [the] action by merely amending [the] complaint.’” *Goode v. Cent. Va. Legal Aid Soc’y, Inc.*, 807 F.3d 619, 623 (4th Cir. 2015) (quoting *Domino Sugar Corp. v. Sugar Workers Local Union 392*, 10 F.3d 1064, 1066-67 (4th Cir. 1993)). Because the grounds for the district court’s order “did not clearly preclude amendment,” *id.* at 630, we conclude that it is neither a final order nor an appealable interlocutory or collateral order.

Accordingly, we dismiss the appeal for lack of jurisdiction and remand to the district court with instructions to allow Proctor another opportunity to amend the complaint. 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