

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-1419

JAMES TOLLE,

Plaintiff - Appellant,

v.

GOVERNOR RALPH NORTHAM; COMMONWEALTH OF VIRGINIA,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (1:20-cv-00363-LMB-MSN)

Submitted: October 13, 2020

Decided: October 26, 2020

Before KEENAN and THACKER, Circuit Judges, and SHEDD, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

James Tolle, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Tolle seeks to appeal the district court’s April 8, 2020, order denying his request for a hearing and denying his motion for reconsideration of its prior order denying his motions for a preliminary injunction or temporary restraining order, an expedited hearing, and service of his complaint by the United States Marshals Service filed in his 42 U.S.C. § 1983 civil action. 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). The order Tolle seeks to appeal is neither a final order nor an appealable interlocutory* or collateral order. Accordingly, we dismiss the appeal for lack of jurisdiction. We deny Tolle’s motion for expedited review and an expedited hearing and deny the motion filed by Americans United for Separation of Church and State for leave to file a brief as amicus curiae. 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

* An order denying a preliminary injunction is an immediately appealable interlocutory order. 28 U.S.C. § 1292(a)(1). However, we generally lack jurisdiction to review the denial of a temporary restraining order. *See Office of Pers. Mgmt. v. Am. Fed’n of Gov’t Emps.*, 473 U.S. 1301, 1303-05 (1985) (Burger, C.J., in chambers); *Drudge v. McKernon*, 482 F.2d 1375, 1376 (4th Cir. 1973) (per curiam) (“[W]e are aware of no[] [authority], that, as a general rule, the . . . denial of a motion for a temporary restraining order is an appealable order.”). Because a “court may issue a preliminary injunction only on notice to the adverse party,” Fed. R. Civ. P. 65(a)(1), and Tolle did not provide notice of his request for a preliminary injunction or for reconsideration of the denial of that request to Defendants prior to the April 8 order, we construe these requests as seeking only a temporary restraining order.