

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-1865

PATRICK LOCKHART, individually and as parent and next friend of B.L. and K.L.; K.L.;
B.L.,

Plaintiffs - Appellants,

v.

COMMONWEALTH OF VIRGINIA; STEPHEN THOMAS DESCANO, JR.,
Commonwealth's Attorney; RYAN BREDEMEIER; BENNETT W. BRASFIELD;
KAREN R. STOKES LOCKHART; CHIEF JUDGE BRUCE DOUGLAS WHITE;
FAIRFAX COUNTY CIRCUIT COURT; MICHAEL DEVINE; JOAN ALPER;
THEODORE J. MARKOW; STEPHANIE J. SMITH; ROBERT M. WORSTER;
COOPER GINSBERG GRAY PLLC; ROBERT STALZER, City Manager; ERIN
SCHAIBLE, Police Chief; CITY OF FAIRFAX; ANDREW E. HAWKINS, #26; BROCK
RUTTER, #309; DANIEL E. GRIMM; COREY SCOTT, #208; ALYSSA RIEFFLE,
#224; BRIANA TURNER-GILMORE, #342; ALBERT L. LEIGHTLEY, #202; ALEXIS
JARA, #216; KYLE BRUCE, #218; JOE JOHNSON, #22; KEVIN BARTECHKO, #32;
MATTHEW KENYON, #327; CODY DEITRICK, #312; SAMUEL DEE, #330;
MAURICE ANDERSON, #344; SHAWN SUTHERLAND, #51; WILLIAM LAWLOR,
#314; BRIAN CRUMP, #321; AMY HOSKINS, #332; JOHN DOE UNKNOWN CFPD
OFFICER & SUPERVISORS (1-10); MATTHEW GREEN, #229; EDITH EDWARDS-
TALBOT, Regional Magistrate Supervisor; ALYSSA D. EMERY, Chief Magistrate;
MARTIN NACHTMAN, Former CFPD Captain; DINA C. GLEDHILL; SARAH SAMI;
JONATHAN B. BOLLS; ROBERT E. SHERFY; SHERIFF STACEY KINCAID;
THOMAS W. GOW; TIMOTHY FLORIO, #139; K. CARTER; NADEEM MIAN, #855
Deputy Sheriff; FAIRFAX COUNTY; BRYAN HILL, County Executive; JANE DOE
DEPUTIES (1-10); UNKNOWN FCPD OFFICERS & SUPERVISORS (1-10); FAIRFAX
COUNTY SCHOOL BOARD; JIM JONES; REBECCA G. BAENIG; CHRISTOPHER
M. SMITH; SCOTT BRABRAND, Supt.; PHYLLIS PAJARDO, Supt.; DAWN
BUTORAC, Fairfax Public Defender; CITY OF FAIRFAX SCHOOL BOARD; BRIAN
GOODMAN; STEPHAN HALL, Assistant Commonwealth's Attorney; KATHRYN
DONOGHUE,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Claude M. Hilton, Senior District Judge. (1:21-cv-00710-CMH-JFA)

Submitted: February 16, 2023

Decided: February 21, 2021

Before GREGORY, Chief Judge, RUSHING, Circuit Judge, and FLOYD, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Patrick Lockhart, Appellant Pro Se. Alexander Francuzenko, Philip Corliss Krone, John-David Coker, CROOK CRAIG & FRANCUZENKO, PLLC, Fairfax, Virginia; Jacob M. Small, J. MADISON PLC, McLean, Virginia; Laurie Kirkland, BLANKINGSHIP & KEITH, PC, Fairfax, Virginia; Dawn Boyce, MCGAVIN, BOYCE, BARDOT, THORSEN & KATZ, P.C., Fairfax, Virginia; Robert McCay Hardy, FAIRFAX COUNTY ATTORNEY'S OFFICE, Fairfax, Virginia; Julia Bougie Judkins, FAIRFAX COUNTY PUBLIC SCHOOLS, Falls Church, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Patrick Lockhart, acting on his own behalf and on behalf of his two minor sons, seeks to appeal the district court's order granting the motions to dismiss filed by several of the many defendants in the underlying 42 U.S.C. § 1983 action and dismissing the action, but affording Lockhart 20 days to file an amended complaint correcting the identified pleading deficiencies. Several Defendants move to dismiss this appeal for lack of jurisdiction.

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). “[A]n order that dismisses a complaint with leave to amend is not a final decision because it means that the district court is not finished with the case.” *Britt v. DeJoy*, 45 F.4th 790, 793 (4th Cir. 2022) (en banc) (citing *Jung v. K. & D. Min. Co.*, 356 U.S. 335, 336-37 (1958)). If Lockhart wishes to appeal from this order, he must first “waive [his] right to amend the complaint by requesting that the district court take further action to finalize its decision,” *id.* at 796 (citing *Jung*, 356 U.S. at 337), and he “must obtain an additional, final decision from the district court finalizing its judgment,” *id.* at 797. Because Lockhart has not done so, the order he seeks to appeal is neither a final order nor an appealable interlocutory or collateral order.

Accordingly, we grant the pending motions to dismiss and dismiss this appeal for lack of jurisdiction. We deny as moot Lockhart's motion to suspend the deadline for filing an informal reply brief pending resolution of the motions to dismiss. 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