

**UNPUBLISHED**UNITED STATES COURT OF APPEALS  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

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**No. 06-7979**

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STEPHEN RAY WESTBERRY,

Plaintiff - Appellant,

versus

SAM RILEY,

Defendant - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Beaufort. R. Bryan Harwell, District Judge.  
(9:06-cv-02758-RBH)

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Submitted: January 25, 2007

Decided: February 1, 2007

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Before WIDENER and MICHAEL, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Stephen Ray Westberry, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Stephen Ray Westberry seeks to appeal the report and recommendation of the magistrate judge entered November 9, 2006. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order Westberry seeks to appeal is not an appealable interlocutory or collateral order. Accordingly, we dismiss the appeal for lack of jurisdiction. Westberry's motion for summary judgment is also denied. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED