

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6273

JOHN PAUL SMITH, SR.,

Plaintiff - Appellant,

versus

COMMONWEALTH OF VIRGINIA; VIRGINIA DEPARTMENT
OF CORRECTIONS; GENE M. JOHNSON, VDOC
Director; FRED SCHILLING, VDOC Health Services
Director; POWHATAN CORRECTIONAL CENTER; EDDIE
L. PEARSON, Warden; ASST. WARDEN MEDICAL
BAILEY; DOCTOR RODR; NURSE SPIGLE, RN,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Rebecca Beach Smith, District
Judge. (2:06-cv-00643-RBS)

Submitted: August 30, 2007

Decided: September 6, 2007

Before MICHAEL, KING, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

John Paul Smith, Sr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Paul Smith seeks to appeal the district court's dismissal without prejudice of his civil action. 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 Smith 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 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

*Because Smith's complaint was dismissed without prejudice and the relevant defect can be cured by amending the complaint, the dismissal order is interlocutory and not appealable. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066 (4th Cir. 1993).