

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6447

GREGORY RICE,

Plaintiff - Appellant,

v.

STATE OF MARYLAND, in and for Washington County; FRED C. WRIGHT, III; DONALD EUGENE BEACHLEY; DON MCDOWELL; CHARLES STRONG; DANA MAYLAN, Ethics Commission; JOHN BARR, President, Commissioner,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Peter J. Messitte, Senior District Judge. (8:08-cv-00590-PJM)

Submitted: September 28, 2009

Decided: October 22, 2009

Before MOTZ and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Gregory Rice, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gregory Rice appeals the district court's order construing his 42 U.S.C. § 1983 (2006) complaint as a petition for writ of mandamus and dismissing it without prejudice.* We have reviewed the record and find no reversible error. Although the district court did not specifically address Rice's claim of the denial of access to courts, we find that the claim fails because the defendants are immune from suit. Stump v. Sparkman, 435 U.S. 349, 356-57 (1978); King v. Myers, 973 F.2d 354, 356-57 (4th Cir. 1992). Accordingly, we affirm. 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.

AFFIRMED

* Generally, dismissals without prejudice are interlocutory and not appealable. Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066 (4th Cir. 1993). However, a dismissal without prejudice could be final if no amendment to the complaint could cure the defects in the plaintiff's case. Id. at 1066-67. We conclude that the defects in this case cannot be cured by an amendment to the complaint and that the order is therefore appealable.