

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-1307

RICKY LEE HANKINS,

Plaintiff - Appellant,

v.

JIMMY AYERS,

Defendant - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Lynchburg. Norman K. Moon, District Judge. (6:09-cv-00014-nkm)

Submitted: June 3, 2009

Decided: June 10, 2009

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

Dismissed by unpublished per curiam opinion.

Ricky Lee Hankins, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ricky Lee Hankins seeks to appeal the district court's order dismissing without prejudice his 42 U.S.C. § 1983 (2006) complaint for failure to state a claim upon which relief may be granted under 28 U.S.C. § 1915(e)(2)(B) (2006). This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2006), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2006); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-46 (1949). Because the deficiency identified by the district court - that the complaint did not assert sufficient facts in support of its legal conclusions - may be remedied by the filing of a complaint that articulates adequate facts, we conclude that the order Hankins seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066 (4th Cir. 1993) (a dismissal without prejudice is not generally appealable).

Accordingly, we dismiss the appeal for lack of jurisdiction. We deny Hankins' motion for appointment of counsel. 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