

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7458

CALVIN RUFFIN MALLORY,

Plaintiff - Appellant,

v.

VIRGINIA PAROLE BOARD; VIRGINIA DEPARTMENT OF CORRECTIONS,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, Chief District Judge. (3:09-cv-00466-JRS)

Submitted: December 17, 2009

Decided: December 29, 2009

Before WILKINSON, NIEMEYER, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Calvin Ruffin Mallory, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Calvin Ruffin Mallory seeks to appeal the district court's dismissal of his complaint without prejudice because he failed to comply with the district court's October 4, 2002, order enjoining him from filing pleadings that do not comport with certain requirements, such as legibility and submission on the proper forms.

Generally, a district court's dismissal of a complaint without prejudice is not appealable. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993) (holding that "a plaintiff may not appeal the dismissal of his complaint without prejudice unless the grounds for dismissal clearly indicate that no amendment [in the complaint] could cure the defects in the plaintiff's case") (alteration in original) (internal quotation marks omitted). However, "if the grounds of the dismissal make clear that no amendment could cure the defects in the plaintiff's case, the order dismissing the complaint is final in fact and [appellate jurisdiction exists]." Id. at 1066 (alteration in original) (internal quotation marks omitted).

In this case, Mallory may be able to save his action by amending his complaint to comply with the district court's October 4, 2002, order. Therefore, the district court's

dismissal of Mallory's complaint without prejudice is not an appealable final 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 air the decisional process.

DISMISSED