

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7998

JAMES LOUIS LEE, JR.,

Plaintiff - Appellant,

v.

PATRICK GURNEY, Assistant Warden, Nottoway Correctional Center, in Official and Individual Capacity; FRED SCHILLING, M.D., Director, in Official and Individual Capacity; HARVARD STEPHENS, M.D., Chief Physician, in Official and Individual Capacity,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Richard L. Williams, Senior District Judge. (3:08-cv-00161-RLW)

Submitted: January 14, 2010 Decided: January 22, 2010

Before MOTZ, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

James Louis Lee, Jr., Appellant Pro Se. William W. Muse, Assistant Attorney General, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Lee, Jr., seeks to appeal the district court's grant of summary judgment in favor of defendants Patrick Gurney, Fred Schilling, and Harvard Stephens. 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 proceedings are ongoing as to one defendant in the district court, and the district court did not direct entry of judgment as to the other parties pursuant to Fed. R. Civ. P. 54(b), the order Lee seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. See Robinson v. Parke-Davis & Co., 685 F.2d 912, 913 (4th Cir. 1982). Accordingly, we deny Lee's motion to appoint counsel, and 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