

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-6212**

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LUCIUS ELWOOD MCLEAN,

Plaintiff - Appellant,

v.

L. A. OLIGMUELLER, JR., Detective; DISTRICT ATTORNEY'S  
OFFICE; B. J. BARNES; SGT. LINEIR,

Defendants - Appellees.

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Appeal from the United States District Court for the Middle  
District of North Carolina, at Durham. Thomas David Schroeder,  
District Judge. (1:09-cv-00953-TDS-LPA)

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Submitted: March 16, 2010

Decided: March 24, 2010

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Before NIEMEYER, MOTZ, and DAVIS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Lucius Elwood McLean, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lucius Elwood McLean seeks to appeal the magistrate judge's order and recommendation to dismiss McLean's 42 U.S.C. § 1983 (2006) complaint without prejudice. 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, 545-47 (1949). The magistrate judge's order is neither a final order nor an appealable interlocutory or collateral order. Moreover, where a magistrate judge has been designated by a district court judge to submit "proposed findings of fact and recommendations for the disposition" of a prisoner petition challenging conditions of confinement under 28 U.S.C. § 636(b)(1)(B) (2006), the parties must be given fourteen days within which to "serve and file written objections," and the district judge is required to "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1) (2006 and Supp. 1A 2009). 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