

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6976

JOHN R. LAY,

Plaintiff - Appellant,

v.

HARRIS L. DIGGS, JR., Warden; VIRGINIA STATE EMPLOYEE, 1-34,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (1:10-cv-00519-JCC-TCB)

Submitted: August 31, 2010

Decided: October 14, 2010

Before WILKINSON, MOTZ, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

John R. Lay, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John R. Lay appeals the district court's order directing Lay to amend and particularize his civil rights complaint, filed pursuant to 42 U.S.C. § 1983 (2006), and to either pay the requisite filing fee or apply to proceed in forma pauperis. See Lay v. Diggs, No. 1:10-cv-00519-JCC-TCB (E.D. Va. June 15, 2010). Lay also requests authorization from this court "for leave to proceed before United States Congress for review." For the reasons set forth below, we deny the motion and dismiss the appeal.

In his motion, Lay asks this court to declare, in the first instance, that the facts alleged in the complaint filed in his civil action, which is pending in the Eastern District of Virginia, demonstrate that he "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g) (2006). We decline Lay's request, and deny the motion.

We further hold that we lack jurisdiction over the pending appeal. 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 (1949). The order Lay seeks to appeal is neither a final order nor an appealable interlocutory or collateral 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 aid the decisional process.

DISMISSED