

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-1873

ANTHONY LEE MCNAIR,

Plaintiff - Appellant,

v.

ROBERT A. EVAN,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Greenville. Louise W. Flanagan, District Judge. (4:12-cv-00069-FL)

Submitted: November 13, 2012

Decided: November 15, 2012

Before NIEMEYER, GREGORY, and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Anthony Lee McNair, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Anthony Lee McNair appeals the district court's order dismissing his civil action without prejudice as frivolous and as barred by the terms of a pre-filing injunction.* We have reviewed the record and find no reversible error. Accordingly, we grant leave to proceed in forma pauperis and affirm for the reasons stated by the district court. McNair v. Evan, No. 4:12-cv-00069-FL (E.D.N.C. July 4 & 11, 2012). 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.

AFFIRMED

* Generally, orders dismissing complaints without prejudice are interlocutory and not appealable. Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993) (holding that an order dismissing a complaint without prejudice is a final, appealable order only if "no amendment [to the complaint] could cure the defects in the . . . case" (internal quotation marks omitted)). However, orders dismissing actions or cases without prejudice are appealable. Chao v. Rivendell Woods, Inc., 415 F.3d 342, 345 (4th Cir. 2005). Where a district court's dismissal is without prejudice, we evaluate the particular grounds for dismissal to determine whether the appellant could save his action by amending the complaint. Id. We find that the district court's order is an appealable order because the defects in McNair's proposed complaint must be cured by something other than an amendment.