

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-1930

GARY L. GASKINS,

Plaintiff - Appellant,

v.

COMMONWEALTH OF VIRGINIA,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Mark S. Davis, District Judge. (2:12-cv-00367-MSD-DEM)

Submitted: November 13, 2012

Decided: November 15, 2012

Before NIEMEYER, GREGORY, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Gary L. Gaskins, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gary L. Gaskins seeks to appeal the district court's order dismissing without prejudice his complaint under 28 U.S.C. § 1915(e) (2006) for failing to state a cognizable claim. 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). The order Gaskins seeks to appeal is neither a final order nor an appealable interlocutory or collateral order because it is possible for him to cure the pleading deficiencies in the complaint that were identified by the district court. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993) (holding that a dismissal without prejudice is not appealable unless it is clear that no amendment to the complaint "could cure the defects in the plaintiff's case" (internal quotation marks omitted)); see also Chao v. Rivendell Woods, Inc., 415 F.3d 342, 345 (4th Cir. 2005) (explaining that, under Domino Sugar, this court must "examine the appealability of a dismissal without prejudice based on the specific facts of the case in order to guard against piecemeal litigation and repetitive appeals"). 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