

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-6889

KENARD E. JOHNSON,

Plaintiff - Appellant,

v.

STAN BARRY, Sheriff of Fairfax County; LT. TANNER,
Supervisor policy and planning; ARAMARK CORRECTIONAL
SERVICES,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. Leonie M. Brinkema,
District Judge. (1:12-cv-00227-LMB-TCB)

Submitted: September 27, 2012 Decided: October 2, 2012

Before MOTZ, DAVIS, and WYNN, Circuit Judges.

Dismissed in part; affirmed in part by unpublished per curiam
opinion.

Kenard E. Johnson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenard E. Johnson filed a 42 U.S.C. § 1983 (2006) complaint in the district court. He appeals the district court's order denying class certification and dismissing Aramark Correctional Services and also appeals the district court's order dismissing the action without prejudice for failure to comply with a court order. We dismiss in part and affirm in part.

We dismiss the appeal of Johnson's § 1983 claims, with the exception of the district court's dismissal of Aramark Correctional Services. 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). Because the deficiencies identified by the district court – that Johnson failed to amend his complaint and particularize his claims – may be remedied by the filing of a complaint that satisfies the requirements of the district court, we conclude that, as to the dismissal of the complaint, with the exception of the dismissal of Aramark Correctional Services, the district court's order is neither a final order nor an appealable interlocutory or collateral order. Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d

1064, 1066-67 (4th Cir. 1993). Accordingly, we dismiss this portion of the appeal for lack of jurisdiction.

With respect to the district court's dismissal of Aramark Correctional Services and denial of class certification, we have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. Johnson v. Barry, No. 1:12-cv-00227-LMB-TCB (E.D. Va. Mar. 12, 2012).

We deny Johnson's motion to appoint counsel. 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 IN PART;
AFFIRMED IN PART