

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 13-6037**

---

WAYNE D. BUTTS,

Plaintiff - Appellant

v.

HAROLD W. CLARKE, Director of the Virginia Department of  
Corrections,

Defendant - Appellee.

---

Appeal from the United States District Court for the Eastern  
District of Virginia, at Norfolk. Lawrence Richard Leonard,  
Magistrate Judge. (2:12-cv-00210-MSD-LRL)

---

Submitted: March 26, 2013

Decided: March 29, 2013

---

Before DUNCAN, FLOYD, and THACKER, Circuit Judges.

---

Dismissed by unpublished per curiam opinion.

---

Wayne D. Butts, Appellant Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Wayne D. Butts seeks to appeal the magistrate judge's orders denying his request to proceed in forma pauperis as to his 28 U.S.C. § 2254 petition, and his subsequent motion for reconsideration. 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). Absent both designation by the district court and consent of the parties, 28 U.S.C. § 636(c) (2006), a magistrate judge lacks authority to issue dispositive orders. See 28 U.S.C. § 636(b) (2000); Colorado Bldg. & Constr. Trades Council v. B.B. Andersen Constr. Co., 879 F.2d 809, 811 (10th Cir. 1989) (appellate court has no jurisdiction over magistrate's order unless district court designates such authority to magistrate or parties consent); Gleason v. Sec'y of Health & Human Serv., 777 F.2d 1324 (8th Cir. 1985); see also United States v. Bryson, 981 F.2d 720, 723-26 (4th Cir. 1992) (discussing magistrate judge's authority to rule on 28 U.S.C. § 2255 (2000) motion); United States v. Flaherty, 668 F.2d 566, 585 (1st Cir. 1981) (magistrate judge authorized to make only determinations that do not constitute final judgments). Because it does not appear from the record that the parties have consented to the authority of the magistrate judge, and no other basis for immediate review

exists at this time, the magistrate judge's orders are interlocutory orders not subject to appellate review in this court. Accordingly, we deny leave to proceed in forma pauperis and 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 this court and argument would not aid the decisional process.

DISMISSED