

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6738

EDWARD J. MERCER,

Petitioner - Appellant,

v.

WARDEN DAVID BALLARD,

Respondent - Appellee.

Appeal from the United States District Court for the Northern
District of West Virginia, at Elkins. John Preston Bailey,
Chief District Judge. (2:12-cv-00040-JPB-DJJ)

Submitted: July 18, 2013

Decided: July 23, 2013

Before WILKINSON, MOTZ, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Edward J. Mercer, Appellant Pro Se. Robert David Goldberg,
Assistant Attorney General, Silas B. Taylor, OFFICE OF THE
ATTORNEY GENERAL OF WEST VIRGINIA, Charleston, West Virginia,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Edward J. Mercer seeks to appeal the district court's order adopting in part and declining to adopt in part the magistrate judge's report and recommendation, and dismissing as untimely all but one of Mercer's claims in his pending 28 U.S.C. § 2254 (2006) petition. 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 Mercer 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 this court and argument would not aid the decisional process.

DISMISSED