

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6387

KENNETH H. NEWKIRK,

Plaintiff - Appellant,

v.

NORMA JEAN CAPP, Ms., Magistrate, Issue Search Warrants;
ROBERT LITTLE, Mr., Detective, Solve Mysteries; R. MAYER,
Mr., Detective-Detective,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Richmond. Henry E. Hudson, District
Judge. (3:13-cv-00074-HEH)

Submitted: July 24, 2014

Decided: July 28, 2014

Before FLOYD and THACKER, Circuit Judges, and DAVIS, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Kenneth H. Newkirk, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenneth H. Newkirk appeals the district court's order directing him to particularize his 42 U.S.C. § 1983 (2012) complaint and denying his motion for appointment of counsel.

We may exercise jurisdiction only over final orders and certain interlocutory and collateral orders. Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 546 (1949). When a notice of appeal is premature, the jurisdictional defect can be cured if the district court enters a final judgment prior to our consideration of the appeal under the doctrine of cumulative finality. Equip. Fin. Grp., Inc. v. Traverse Computer Brokers, 973 F.2d 345, 347-48 (4th Cir. 1992). However, not all premature notices of appeal are subject to the cumulative finality rule; instead, this doctrine applies only when the appellant appeals from an order that the district court could have certified for immediate appeal under Fed. R. Civ. P. 54(b). In re Bryson, 406 F.3d 284, 287-89 (4th Cir. 2005). Appeals from "clearly interlocutory decision[s]," such as the one Newkirk seeks to appeal, cannot be saved under cumulative finality. Id. at 288 (internal quotation marks omitted). Accordingly, although the district court has entered its final order dismissing Newkirk's action, we dismiss Newkirk's appeal as interlocutory.

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