

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6029

STANLEY D. LINDER,

Plaintiff - Appellant,

v.

ISAAC MCDUFFIE STONE, III, District Attorney; HARRIS BEACH,
Attorney; SEAN THORNTON, Solicitor; PATRICIA C. GRANT, Clerk
of Court,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Charleston. Richard Mark Gergel, District
Judge. (2:15-cv-04619-RMG)

Submitted: May 26, 2016

Decided: June 1, 2016

Before TRAXLER, Chief Judge, and NIEMEYER and FLOYD, Circuit
Judges.

Dismissed and remanded by unpublished per curiam opinion.

Stanley D. Linder, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Stanley D. Linder seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing without prejudice his 42 U.S.C. § 1983 (2012) complaint for failing to plead, at least as to one count, sufficient facts to state a claim. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2012), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2012); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-46 (1949).

An order dismissing a complaint without prejudice is not an appealable final order if "the plaintiff could save his action by merely amending his complaint." Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). Where a district court dismisses an action for failure to plead sufficient facts in the complaint, we lack appellate jurisdiction because the plaintiff could amend the complaint to cure the pleading deficiency. Goode v. Cent. Va. Legal Aid Soc'y, Inc., 807 F.3d 619, 624 (4th Cir. 2015).

Accordingly, we deny Linder's motion to appoint counsel, dismiss the appeal, and remand the case to the district court with instructions to allow Linder to file an amended complaint. 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 AND REMANDED