

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1129

ARMANDO DESPAIGNE ZULVETA,

Plaintiff - Appellant,

v.

TC UNLIMITED INCORPORATED; TIM CASE,

Defendants - Appellees,

and

STATE AUTOMOBILE MUTUAL INSURANCE COMPANY; PHILPOT LAW FIRM, PA; STEADMAN HAWKINS CLINIC OF THE CAROLINAS; WILSON JONES CARTER & BAXLEY PA; ROBERT P. RESTREPO, JR.; STEPHEN R. BRUNER; IRVIN H. PHILPOT, III; CURTIS ELLIOT; WESLEY J. SHULL,

Defendants.

No. 17-1707

ARMANDO DESPAIGNE ZULVETA,

Plaintiff - Appellant,

v.

TC UNLIMITED INCORPORATED; TIM CASE,

Defendants - Appellees,

and

STATE AUTOMOBILE MUTUAL INSURANCE COMPANY; PHILPOT LAW FIRM, PA; STEADMAN HAWKINS CLINIC OF THE CAROLINAS; WILSON JONES CARTER & BAXLEY PA; ROBERT P. RESTREPO, JR.; STEPHEN R. BRUNER; IRVIN H. PHILPOT, III; CURTIS ELLIOT; WESLEY J. SHULL,

Defendants.

Appeals from the United States District Court for the District of South Carolina, at Greenville. Henry M. Herlong, Jr., Senior District Judge. (6:15-cv-02880-HMH-KFM; 6:15-cv-02880-HMH)

Submitted: July 31, 2017

Decided: August 14, 2017

Before KING, WYNN and FLOYD, Circuit Judges.

No. 17-1129 dismissed; No. 17-1707 affirmed by unpublished per curiam opinion.

Armando Despaigne Zulveta, Appellant Pro Se. Timothy Alan Domin, CLAWSON & STAUBES, LLC, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

These two appeals are consolidated for our consideration. In No. 17-1129, Armando Despaigne Zulveta seeks to appeal the district court's order denying his first Fed. R. Civ. P. 60 motion, filed before entry of final judgment and in regard to nonfinal orders. 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). The order Zulveta seeks to appeal in this appeal is neither a final order nor an appealable interlocutory or collateral order. Therefore, we must dismiss this appeal for lack of jurisdiction.

In No. 17-1707, Zulveta appeals the district court's order denying his second Rule 60 motion, which Zulveta filed after entry of final judgment. We have reviewed the record and conclude that the district court did not abuse its discretion in denying the motion. *See Aikens v. Ingram*, 652 F.3d 496, 501 (4th Cir. 2011) (en banc) (identifying standard of review). Accordingly, we affirm for the reasons stated by the district court. *Zulveta v. TC Unlimited Inc.*, No. 6:15-cv-02880-HMH-KFM (D.S.C. Apr. 21, 2017).*

Although we grant leave to proceed in forma pauperis in these appeals, we deny Zulveta's request to transfer venue and his motions to recuse. We dispense with oral

* In his informal brief, Zulveta also seeks a writ of mandamus. We reject this request because a writ of mandamus cannot be used as a substitute for appeal. *Bankers Life & Cas. Co. v. Holland*, 346 U.S. 379, 383 (1953).

argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

No. 17-1129 *DISMISSED*

No. 17-1707 *AFFIRMED*