

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6096

DANIELE DEPAOLIS,

Plaintiff – Appellant,

v.

C. B. KING, Lieutenant; HUGHES, Lieutenant; T. B. SMITH, Sergeant; B. K. MCCRAY, Sergeant; D. J. DAVIS, Officer; M. S. BYINGTON, Officer; T. W. HALL, Officer; J. R. LEDFORD, Officer; JOHN SHORT, Officer,

Defendants - Appellees.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Elizabeth Kay Dillon, District Judge. (7:16-cv-00409-EKD-RSB)

Submitted: May 25, 2017

Decided: May 31, 2017

Before MOTZ, THACKER, and HARRIS, Circuit Judges.

Affirmed in part, dismissed in part by unpublished per curiam opinion.

Daniele Depaolis, Appellant Pro Se. Margaret Hoehl O’Shea, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniele Depaolis seeks to appeal the district court's orders denying his motion for preliminary injunctive relief; denying his motion for reconsideration of the court's denial of preliminary injunctive relief; and denying his motion for appointment of counsel. We affirm in part and dismiss in part.

Although the denial of a motion for a preliminary injunction is an appealable interlocutory order, 28 U.S.C. § 1292(A)(1) (2012), we conclude that the district court did not abuse its discretion in determining that Depaolis' transfer to another prison rendered his claim for injunctive relief moot. *See Dewhurst v. Century Aluminum Co.*, 649 F.3d 287, 290 (4th Cir. 2011) (setting forth standard of review). We therefore affirm the district court's orders denying Depaolis' motion for preliminary injunctive relief and denying his motion for reconsideration for the reasons stated by the district court. *Depaolis v. King*, No. 7:16-cv-00409-EKD-RSB (W.D. Va. Nov. 9, 2016 & Jan. 31, 2017).

With respect to the order denying Depaolis' motion for appointment of counsel, 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, 69 S. Ct. 1221, 93 L.Ed. 1528 (1949). Because this order is neither a final order nor an appealable interlocutory or collateral order, we dismiss this portion of the appeal. 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.

*AFFIRMED IN PART
DISMISSED IN PART*