

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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**No. 17-6474**

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MICHAEL A. BREYAN,

Plaintiff - Appellant,

v.

CAPTAIN TOLTH,

Defendant - Appellee,

and

EVERY OTHER OFFICER, involved in Disciplinary 112-N-113 on DVD Record,

Defendants.

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Appeal from the United States District Court for the District of South Carolina, at Charleston. Bruce H. Hendricks, District Judge. (2:17-cv-00302-BHH-MGB)

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Submitted: July 20, 2017

Decided: July 25, 2017

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Before DUNCAN and WYNN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed and remanded by unpublished per curiam opinion.

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Michael Breyan, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

Michael A. Breyan appeals the district court's order dismissing without prejudice his 42 U.S.C. § 1983 (2012) action under Fed. R. Civ. P. 41(b) for failure follow the court's earlier order that he needed to bring his case into the proper form. 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, 545–47 (1949). Because the district court identified deficiencies that Breyan may remedy by filing an amended complaint, we conclude that the order Breyan seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. *See Goode v. Cent. Va. Legal Aid Soc'y, Inc.*, 807 F.3d 619, 623–24 (4th Cir. 2015); *Domino Sugar Corp. v. Sugar Workers Local Union 392*, 10 F.3d 1064, 1066–67 (4th Cir. 1993). Accordingly, we dismiss this appeal for lack of jurisdiction and remand the case to the district court with instructions to allow Breyan to amend his complaint. *Goode*, 807 F.3d at 630. 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*