

UNPUBLISHED

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

No. 18-1337

KENNETH SMITH,

Plaintiff - Appellant,

v.

MEGAN J. BRENNAN,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Claude M. Hilton, Senior District Judge. (1:17-cv-01097-CMH-MSN)

Submitted: August 31, 2018

Decided: September 6, 2018

Before KEENAN, WYNN, and THACKER, Circuit Judges.

Dismissed and remanded by unpublished per curiam opinion.

Kenneth Smith, Appellant Pro Se. Dennis Carl Barghaan, Jr., Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenneth Smith seeks to appeal the district court's order dismissing without prejudice his amended complaint alleging employment discrimination, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17 (2012). The court dismissed Counts I and II for failure to allege facts establishing that Smith was the victim of intentional unlawful discrimination and Count II for failure to exhaust administrative remedies.

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 Smith may remedy by filing an amended complaint, we conclude that the order Smith 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 the appeal for lack of jurisdiction and remand the case to the district court with instructions to allow Smith to file an amended complaint. *See 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