

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6181

SHAPAT AHDAWAN NABAYA, a/k/a Norman Abbott,

Petitioner - Appellant,

v.

U.S. ATTORNEY,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at
Richmond. Roderick Charles Young, Magistrate Judge. (3:17-cv-00731-MHL-RCY)

Submitted: June 21, 2018

Decided: June 26, 2018

Before DIAZ and HARRIS, Circuit Judges, and SHEDD, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Shapat Ahdawan Nabaya, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Shapat Ahdawan Nabaya seeks to appeal the magistrate judge's order directing him to file his 28 U.S.C. § 2241 (2012) petition on the proper form. After Nabaya filed the proper form and noted his appeal, the district court dismissed his § 2241 petition without prejudice.

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). When a notice of appeal is premature, the entry of final judgment can cure the resulting jurisdictional defect under the doctrine of cumulative finality but only if the order being appealed could have been certified for intermediate appeal under Rule 54(b). *In re Bryson*, 406 F.3d 284, 287-89 (4th Cir. 2005); *Equip. Fin. Grp. v. Traverse Computer Brokers*, 973 F.2d 345, 347 (4th Cir. 1992).

The order Nabaya seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Further, because the district court could not have certified the challenged order for immediate appeal under Rule 54(b), the cumulative finality doctrine does not apply. Accordingly, we deny leave to proceed in forma pauperis, deny Nabaya's motion to compel, and dismiss the appeal for lack of jurisdiction. 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