

UNPUBLISHED

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

No. 18-7325

ROGER EARL COLEY,

Plaintiff - Appellant,

v.

STATE OF NORTH CAROLINA; JUDGE W. RUSSELL DUKE, JR.,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, District Judge. (5:17-ct-03109-D)

Submitted: December 20, 2018

Decided: December 27, 2018

Before DIAZ and RICHARDSON, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Roger Earl Coley, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Roger Earl Coley appeals the district court's order denying his motion for reconsideration of the order dismissing his 42 U.S.C. § 1983 (2012) action as frivolous. On appeal, we confine our review to the issues raised in the Appellant's brief. *See* 4th Cir. R. 34(b). As Coley's informal brief does not challenge the basis for the district court's denial of Fed. R. Civ. P. 60(b) relief, he has forfeited appellate review of that decision. *See Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014). Although Coley asserts that the district court should have appointed him counsel during the proceedings below, we discern no abuse of discretion in the district court's failure to appoint counsel sua sponte. *See Miller v. Simmons*, 814 F.2d 962, 966 (4th Cir. 1987) (standard of review); *Whisenant v. Yuam*, 739 F.2d 160, 163 (4th Cir. 1984) (requiring exceptional circumstances to support appointment of counsel in civil cases), *abrogated on other grounds by Mallard v. U.S. Dist. Court for the S. Dist. of Iowa*, 490 U.S. 296 (1989). Because we have reviewed the record and find that this appeal is frivolous, we dismiss 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.

DISMISSED