

**UNPUBLISHED**

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

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**No. 19-1007**

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ERIC E. MILLER,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA; STATE OF VIRGINIA; ARLINGTON  
COUNTY'S JURISPRUDENCE,

Defendants - Appellees.

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Appeal from the United States District Court for the Eastern District of Virginia, at  
Richmond. Henry E. Hudson, Senior District Judge. (3:18-cv-00456-HEH)

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Submitted: May 23, 2019

Decided: May 28, 2019

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Before KING and RICHARDSON, Circuit Judges, and SHEDD, Senior Circuit Judge.

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Dismissed and remanded by unpublished per curiam opinion.

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Eric E. Miller, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eric E. Miller seeks to appeal the district court's order dismissing without prejudice his civil action. The district court informed Miller that he was free to file an amended complaint. *See Goode v. Cent. Va. Legal Aid Soc'y, Inc.*, 807 F.3d 619, 624 (4th Cir. 2015) (holding that this court lacks jurisdiction over appeals "in cases in which the district court granted a motion to dismiss for failure to plead sufficient facts in the complaint . . . because the plaintiff could amend the complaint to cure the pleading deficiency"). Because the district court left open the possibility for Miller to amend his complaint, the court's order is not a final order appealable under 28 U.S.C. § 1291 (2012), and we lack jurisdiction over the appeal.

Accordingly, we dismiss the appeal for lack of jurisdiction. *Goode*, 807 F.3d at 630. In *Goode*, we remanded to the district court with instructions to allow amendment of the complaint. *Id.* Here, however, the district court, after closing the action, denied Miller's motion to amend his complaint. Accordingly, we direct on remand that the district court, in its discretion, either afford Miller an opportunity to file an amended complaint or dismiss the complaint with prejudice, thereby rendering the dismissal order a final, appealable order. We grant Miller's motion to seal and 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*