

UNPUBLISHED

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

No. 19-6325

DARREL R. FISHER,

Plaintiff - Appellant,

v.

J.C. HOLLAND; MEGAN BRENNAN,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Raleigh. Louise W. Flanagan, District Judge. (5:18-ct-03149-FL)

Submitted: July 18, 2019

Decided: July 22, 2019

Before WILKINSON, AGEE, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Darrel R. Fisher, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darrel R. Fisher seeks to appeal the district court's order directing him to file a particularized amended complaint. After Fisher filed his notice of appeal, the district court dismissed the action with prejudice as frivolous or, alternatively, for failure to comply with the order to particularize. 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 Fisher 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 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