

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 19-7735**

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JAMES HENRY SIMPSON,

Petitioner - Appellant,

v.

HAROLD CLARKE, Director of Department of Corrections,

Respondent - Appellee.

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**No. 19-7841**

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JAMES HENRY SIMPSON,

Petitioner - Appellant,

v.

HAROLD CLARKE, Director of Department of Corrections,

Respondent - Appellee.

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Appeals from the United States District Court for the Eastern District of Virginia, at Richmond. John A. Gibney, Jr., District Judge; Roderick Charles Young, Magistrate Judge. (3:19-cv-00724-JAG-RCY)

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Submitted: April 16, 2020

Decided: April 21, 2020

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Before GREGORY, Chief Judge, and WYNN and DIAZ, Circuit Judges.

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Dismissed in part and affirmed in part by unpublished per curiam opinion.

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James Simpson, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Simpson seeks to challenge the district court’s order directing him to refile the document the court construed as a 28 U.S.C. § 2254 (2018) petition on a court-approved form. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2018), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2018); Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). The order Simpson seeks to appeal is neither a final order nor an appealable interlocutory or collateral order.<sup>1</sup> Accordingly, we dismiss the appeal in No. 19-7735 for lack of jurisdiction and deny leave to proceed in forma pauperis.

Simpson also appeals the district court’s order dismissing without prejudice his § 2254 petition for failure to prosecute.<sup>2</sup> On appeal, we confine our review to the issues raised in the Simpson’s informal brief filed in No. 19-7841. *See* 4th Cir. R. 34(b). Because that informal brief does not challenge the basis for the district court’s disposition, Simpson has forfeited appellate review of the court’s order. *See Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014) (“The informal brief is an important document; under Fourth Circuit

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<sup>1</sup> Although the district court subsequently dismissed the action before we considered these appeals, the doctrine of cumulative finality does not cure the jurisdictional defect. *See Houck v. Substitute Tr. Servs., Inc.*, 791 F.3d 473, 479 (4th Cir. 2015) (“The doctrine applies . . . only when the appellant appeals from an order that the district court could have certified for immediate appeal under Rule 54(b).”).

<sup>2</sup> We have jurisdiction over the appeal in No. 19-7841 because the district court dismissed the § 2254 petition “for procedural reasons unrelated to the contents of the pleadings.” *Goode v. Cent. Va. Legal Aid Soc’y, Inc.*, 807 F.3d 619, 624 (4th Cir. 2015).

rules, our review is limited to issues preserved in that brief.”). Accordingly, we affirm this portion of the appeal.<sup>3</sup>

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 IN PART,  
AFFIRMED IN PART*

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<sup>3</sup> Although the appeal in No. 19-7841 arises from the disposition of a § 2254 petition, we conclude that a certificate of appealability is unnecessary. *See Harbison v. Bell*, 556 U.S. 180, 194 (2009).