

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-7735

JAMES HENRY SIMPSON,

Petitioner - Appellant,

v.

HAROLD CLARKE, Director of Department of Corrections,

Respondent - Appellee.

No. 19-7841

JAMES HENRY SIMPSON,

Petitioner - Appellant,

v.

HAROLD CLARKE, Director of Department of Corrections,

Respondent - Appellee.

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)

Submitted: April 16, 2020

Decided: April 21, 2020

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

Dismissed in part and affirmed in part by unpublished per curiam opinion.

James Simpson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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.¹ 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.² 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

¹ 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).”).

² 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.³

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*

³ 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).