UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-1149

MELVIN RICHARD ROBINSON, III,

Plaintiff - Appellant,

v.

PARDEE UNC HEALTHCARE; SOUTHEASTERN SPORTS MEDICINE AND ORTHOPEDIC,

Defendants - Appellees.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Max O. Cogburn, Jr., District Judge. (1:20-cv-00372-MOC-WCM)

Submitted: April 27, 2021 Decided: May 3, 2021

Before KEENAN, WYNN, and FLOYD, Circuit Judges.

Dismissed and remanded by unpublished per curiam opinion.

Melvin Richard Robinson, III, Appellant Pro Se.

PER CURIAM:

Melvin Richard Robinson, III, seeks to appeal the district court's order dismissing his civil complaint without prejudice for failure to state a claim. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291, and certain interlocutory and collateral orders, 28 U.S.C. § 1292; Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). "[D]ismissals without prejudice generally are not appealable 'unless the grounds for dismissal clearly indicate that no amendment in the complaint could cure the defects in the plaintiff's case.'" *Bing v. Brivo Sys., LLC*, 959 F.3d 605, 610 (4th Cir. 2020) (quoting *Domino Sugar Corp. v. Sugar Workers Loc. Union 392*, 10 F.3d 1064, 1067 (4th Cir. 1993)), *cert. denied*, __ S. Ct. __, No. 20-759, 2021 WL 666419 (U.S. Feb. 22, 2021). Here, the district court dismissed the complaint but did not direct the clerk's office to close the case. *See id*. at 611-12, 614. Furthermore, the district court did not grant Robinson an opportunity to amend his complaint before dismissing, and Robinson's appeal does not appear to indicate an intent to stand on his complaint. *See id.* at 612. Thus, we conclude that the district court's order is neither a final order nor an appealable interlocutory order.

Accordingly, we dismiss the appeal for lack of jurisdiction. We direct on remand that the district court, in its discretion, either afford Robinson an opportunity to amend or dismiss the complaint with prejudice, thereby rendering the dismissal order a final, appealable judgment. 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 AND REMANDED