

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-6966

ASKARI DANSO MS LUMUMBA,

Plaintiff - Appellant,

and

JOHN BEVERLY; ANTHONY SHAW; TYRONE TROWELL; THOMAS ROSE,

Plaintiffs,

v.

HAROLD CLARKE, Director of the VADOC; A. DAVID ROBINSON, VADOC Chief of Correctional Operations; DAVID ANDERSON, Warden at RNCC; GLOBAL TEL LINK (GTL),

Defendants - Appellees.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Michael F. Urbanski, Chief District Judge. (7:22-cv-00080-MFU-JCH)

Submitted: December 20, 2022

Decided: December 27, 2022

Before NIEMEYER and QUATTLEBAUM, Circuit Judges, and FLOYD, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Askari Danso MS Lumumba, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Askari Danso MS Lumumba seeks to appeal the district court's order dismissing without prejudice under 28 U.S.C. § 1915A(b)(1) and 42 U.S.C. § 1997e(c) his 42 U.S.C. § 1983 civil rights action for failure to state a claim on which relief could be granted. The court's order afforded Lumumba leave to correct the deficiencies it identified and file an amended complaint.

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, 545-47 (1949). “[A]n order that dismisses a complaint with leave to amend is not a final decision because it means that the district court is not finished with the case.” *Britt v. DeJoy*, 45 F.4th 790, 793 (4th Cir. 2022) (en banc) (citing *Jung v. K. & D. Min. Co.*, 356 U.S. 335, 336-37 (1958)). If Lumumba wishes to appeal from this order, he must first “waive [his] right to amend the complaint by requesting that the district court take further action to finalize its decision,” *Britt*, 45 F.4th at 796 (citing *Jung*, 356 U.S. at 337), and he “must obtain an additional, final decision from the district court finalizing its judgment,” *id.* at 797. Because Lumumba has not done so, the order he seeks to appeal is neither a final order nor an appealable interlocutory or collateral order.

Accordingly, we dismiss this 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