

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

JAMES ELLIS MCCULLEY, a/k/a
Michelona Sierra McCulley,
Plaintiff-Appellant,

v.

RONALD J. ANGELONE; JOHN

No. 00-6211

CARBONE, Dr.; M. VERNON SMITH,
Dr.; ROBIN L. HOLBERT, Dr.;
WILLIAM LEE, Dr.; RICHARD A.
YOUNG,
Defendants-Appellees.

JAMES ELLIS MCCULLEY, a/k/a
Michelona Sierra McCulley,
Plaintiff-Appellant,

v.

No. 00-6438

RONALD J. ANGELONE; J. CARBONE,
Doctor; M. VERNON SMITH, Doctor;
ROBIN L. HOLBERT, Doctor; WILLIAM
LEE, Doctor; RICHARD A. YOUNG,
Defendants-Appellees.

Appeals from the United States District Court
for the Western District of Virginia, at Roanoke.
Samuel G. Wilson, Chief District Judge.
(CA-99-749-7)

Submitted: June 9, 2000

Decided: June 27, 2000

Before WIDENER, MURNAGHAN, and TRAXLER,
Circuit Judges.

No. 00-6211 affirmed and No. 00-6438 dismissed by unpublished per curiam opinion.

COUNSEL

James Ellis McCulley, Appellant Pro Se. William W. Muse, Assistant Attorney General, Richmond, Virginia; Peter Duane Vieth, WOOTEN & HART, P.C., Roanoke, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

In these consolidated cases, James McCulley seeks to appeal two orders from an ongoing proceeding in the district court. McCulley filed the action challenging the medical care he was receiving in prison for his alleged transsexualism. In No. 00-6211, McCulley appeals the district court's denial of his request for a preliminary injunction requiring defendants to continue the medical treatment, including hormone injections, that he had been receiving before he entered prison. We have jurisdiction to review such an order, 28 U.S.C.A. § 1292(a)(1) (West 1993 & Supp. 2000), for abuse of discretion. Planned Parenthood of Blue Ridge v. Camblos, 155 F.3d 352, 359 (4th Cir. 1998) (en banc), cert. denied, 525 U.S. 1140 (1999). We conclude that the district court, having properly applied the balancing of hardship analysis set out in Blackwelder Furniture Co. v. Seiling Mfg. Co., Inc., 550 F.2d 189, 193 (4th Cir. 1977), did not abuse its

discretion in denying the requested relief. We therefore affirm the district court's ruling.

In No. 00-6438, McCulley seeks to appeal the district court's order granting defendants protection from discovery pending rulings on a claim of qualified immunity and a motion to dismiss; and denying McCulley's motions for appointment of counsel and a medical expert. We have appellate jurisdiction only over final orders, 28 U.S.C. § 1291 (1994), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (1994); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order here appealed is neither a final order nor an appealable interlocutory or collateral order. Therefore, 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 the court and argument would not aid the decisional process. In No. 00-6211, we deny McCulley's motion for counsel and affirm the order of the district court. In No. 00-6438, we dismiss for lack of jurisdiction.

No. 00-6211 - AFFIRMED

No. 00-6438 - DISMISSED