

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 00-6510

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WALLACE MITCHELL-EL,

Plaintiff - Appellant,

versus

YVONNE ELSWICK; GEORGE E. DEEDS; J. ARMEN-  
TROUT, Assistant Warden Operations; RED ONION  
STATE PRISON; EDWARD C. MORRIS, Deputy Direc-  
tor; VIRGINIA DEPARTMENT OF CORRECTIONS,

Defendants - Appellees.

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Appeal from the United States District Court for the Western  
District of Virginia, at Roanoke. Samuel G. Wilson, Chief District  
Judge. (CA-00-83-7)

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Submitted: July 13, 2000

Decided: July 25, 2000

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Before WIDENER, LUTTIG, and TRAXLER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Wallace Mitchell-El, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Wallace Mitchell-El appeals from the district court's order denying his motion for reconsideration filed under Rule 60(b) of the Federal Rules of Civil Procedure. Mitchell-El sought reconsideration of the district court's summary dismissal without prejudice of his civil rights complaint. "[A] plaintiff may not appeal the dismissal of his complaint without prejudice unless the grounds for dismissal clearly indicate that no amendment [in the complaint] could cure the defects in the plaintiff's case." See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1067 (4th Cir. 1993) (internal quotation marks omitted). In ascertaining whether a dismissal without prejudice is reviewable in this court, we must determine whether Mitchell-El "could save his action by merely amending his complaint." Id. at 1066-67. Because the grounds for dismissal of this action show that Mitchell-El could save the action by filing an amended complaint in the district court, the order denying reconsideration is not appealable.\* Accordingly, we dismiss the 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.

DISMISSED

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\* We note that the statute of limitations continues to run.