

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-2042**

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MUSTAFA H. SA'ID,

Plaintiff - Appellant,

versus

FAIRFAX COUNTY GOVERNMENT CENTER; BEST BUY, INC.; COUNTY OF FAIRFAX POLICE DEPARTMENT; D. A. CROOKE, Sargeant and individually; J. THOMAS MANGER, Colonel, individually; ERIC HANTE, Officer, individually; BRIAN J. MCANDREW, Lieutenant, individually; LEON G. WILLIAMS, Major; THOMAS RYAN, Captain; ARTHUR J. HURLOCK, JR., individually; THOMAS E. TYMAN, individually; CHARLES K. PETERS, Captain, individually; WILLIAMS AUDREY M. SLYMAN, Major, individually; COMMONWEALTH OF VIRGINIA, Workers Compensation Commissioner; SUSAN A. CUMMINS, individually,

Defendants - Appellees.

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**No. 01-2442**

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MUSTAFA H. SA'ID,

Plaintiff - Appellant,

versus

BEST BUY, INCORPORATED,

Defendant - Appellee,

and

FAIRFAX COUNTY GOVERNMENT CENTER; COUNTY OF FAIRFAX POLICE DEPARTMENT; D. A. CROOKE, Sergeant, individually; J. THOMAS MANGER, Colonel, individually; ERIC HANTE, Officer, individually; BRIAN J. MCANDREW, Lieutenant, individually; LEON G. WILLIAMS, Major, individually; THOMAS RYAN, Captain, individually; ARTHUR J. HURLOCK, JR., individually; THOMAS E. TYMAN, individually; CHARLES K. PETERS, Captain, individually; WILLIAMS AUDREY M. SLYMAN, Major, individually; COMMONWEALTH OF VIRGINIA, Workers Compensation Commissioners; SUSAN A. CUMMINS, individually,

Defendants.

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Appeals from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge. (CA-01-677-A)

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Submitted: June 4, 2002

Decided: June 24, 2002

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Before WIDENER, WILLIAMS, and TRAXLER, Circuit Judges.

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No. 01-2042 affirmed and No. 01-2442 affirmed as modified by unpublished per curiam opinion.

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Mustafa H. Sa'id, Appellant Pro Se. Ann Gouldin Killalea, COUNTY ATTORNEY'S OFFICE, Fairfax, Virginia; Louis Edward Matthews, Jr., OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia; John David Griffin, FOWLER, GRIFFIN, COYNE & COYNE, P.C., Winchester, Virginia, for Appellees.

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

PER CURIAM:

In these consolidated cases, Mustafa H. Sa'id appeals the district court's order dismissing his action filed under 42 U.S.C.A. § 1983 (West Supp. 2001), 42 U.S.C. § 1985 (1994), and the magistrate judge's interlocutory order declining to recuse herself.\* Best Buy, Inc., moves to dismiss the appeal, to strike Sa'id's reply in opposition, and to impose sanctions.

Because Sa'id's informal briefs raise no challenge to the magistrate judge's recusal decision, the order denying Sa'id's motion to recuse is affirmed. See 4th Cir. Rule 34(b).

We conclude the district court did not abuse its discretion by dismissing Sa'id's action because he failed to comply with its earlier order instructing him to file an amended complaint. Fed. R. Civ. P. 41(b). However, the dismissal should be without prejudice. Choice Hotels Int'l, Inc. v. Goodwin & Boone, 11 F.3d 469, 472 (4th Cir. 1993); Ballard v. Carlson, 882 F.2d 93, 95-96 (4th Cir. 1989). Accordingly, we affirm as modified the district court's order dismissing Sa'id's action; we modify the order to reflect that the dismissal is without prejudice.

We deny Best Buy's motions to dismiss the appeal, to strike Sa'id's reply in opposition, and to impose sanctions.

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\* While interlocutory when the appeal was filed, the district court's intervening final order permits review under the doctrine of cumulative finality. Equipment Fin. Group, Inc. v. Traverse Computer Brokers, 973 F.2d 345, 347 (4th Cir. 1992).

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.

No. 01-2042 - AFFIRMED

No. 01-2442 - AFFIRMED AS MODIFIED