

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-2289

KENNETH D. ROGERS,

Plaintiff - Appellant,

and

CHRISTOPHER R. TUCK,

Plaintiff,

versus

OFFICER RUSSELL; OFFICER WITHERSPOON,

Defendants - Appellees,

and

CONCORD POLICE DEPARTMENT,

Defendant.

Appeal from the United States District Court for the Middle
District of North Carolina, at Greensboro. James A. Beaty, Jr.,
District Judge. (CA-01-453-1)

Submitted: March 14, 2002

Decided: March 21, 2002

Before NIEMEYER and KING, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Kenneth D. Rogers, Appellant Pro Se. Terry D. Horne, STILES, BYRUM & HORNE, L.L.P., Charlotte, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Kenneth D. Rogers appeals the order of the district court adopting the recommendation of the magistrate judge and granting Defendants' motion to dismiss Rogers' claims. We dismiss Rogers' appeal for lack of jurisdiction because the order is not appealable. This court may exercise 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 because it disposed of only some of the claims and parties in this civil action. Tuck's claims of excessive force against two police officers remain.

We therefore dismiss the appeal as interlocutory. 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