

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 06-6326**

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HAROLD SMITH,

Petitioner - Appellant,

versus

ALBERTO R. GONZALES; HARLEY G. LAPPIN; RICHARD  
HOLT; JOHN J. LAMANNA,

Respondents - Appellees.

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Appeal from the United States District Court for the District of  
South Carolina, at Greenville. Henry F. Floyd, District Judge.  
(6:06-cv-00130-HFF)

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Submitted: October 31, 2006

Decided: November 3, 2006

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Before WILLIAMS, MICHAEL, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Harold Smith, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Harold Smith, a federal prisoner, seeks to appeal the district court's order affirming the magistrate judge's order denying Smith's motion for appointment of counsel in his action filed under 28 U.S.C. § 2241 (2000). This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order Smith seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we dismiss the appeal for lack of jurisdiction.\* Smith's motion for leave to perpetuate testimony pending appeal is denied. 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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\*To the extent that Smith seeks to challenge the magistrate judge's order denying Smith's motion to stay his case pending his transfer to another facility, he failed to appeal this order to the district court and therefore has waived further review. Fed. R. Civ. P. 72(a).