

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6852

STEPHEN RAY WESTBERRY,

Petitioner - Appellant,

v.

EARL RICHARD BAZZLE, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Beaufort. R. Bryan Harwell, District Judge. (9:07-cv-03978-RBH-GCK)

Submitted: July 31, 2008

Decided: August 11, 2008

Before NIEMEYER, TRAXLER, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Stephen Ray Westberry, Appellant Pro Se. James Anthony Mabry, Columbia, South Carolina; Donald John Zelenka, Deputy Assistant Attorney General, SOUTH CAROLINA ATTORNEY GENERAL'S OFFICE, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Stephen Ray Westberry seeks to appeal an order of the magistrate judge in this 28 U.S.C. § 2254 (2000) action. 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 Westberry seeks to appeal is not an appealable interlocutory or collateral order.* 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

*Although Westberry does not specify the date of the order, the only order on the docket at the time he appealed was the magistrate judge's denial of his motion for appointment of counsel. This order is not immediately appealable. Miller v. Simmons, 814 F.2d 962, 967 (4th Cir. 1987).