

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-1802

BEN HOWARD SMITH,

Plaintiff - Appellant,

v.

JOSEPH K. COFFY; BOB ATKINSON; LINDA G. WALTERS; PERCY B. HARVIN; L. KEITH JOSEY, JR.; RONNIE STEWART, all in their individual and official capacity,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Patrick Michael Duffy, Senior District Judge. (2:08-cv-00201-PMD-BM)

Submitted: January 14, 2010

Decided: January 20, 2010

Before MOTZ, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam.

Ben Howard Smith, Appellant Pro Se. Shaun C. Kent, COFFEY, CHANDLER & KENT, PA, Manning, South Carolina; Kelly M. Jolley, MCNAIR LAW FIRM, PA, Hilton Head, South Carolina; Andrew Lindemann, DAVIDSON & LINDEMANN, PA, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ben Howard Smith seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing Defendant Percy B. Harvin from Smith's civil action. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2006), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2006); 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 grant the Appellees' motion to 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