

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-2228**

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GILBERT L. SPURLOCK,

Plaintiff - Appellant,

v.

DANA R. HURST, Colonel; UNITED STATES ARMY CORPS OF  
ENGINEERS,

Defendants - Appellees.

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Appeal from the United States District Court for the Southern  
District of West Virginia, at Huntington. Joseph R. Goodwin,  
Chief District Judge. (3:09-cv-00035)

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Submitted: July 20, 2010

Decided: August 13, 2010

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Before MOTZ and SHEDD, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Gilbert L. Spurlock, Appellant Pro Se. Carol Ann Casto,  
Assistant United States Attorney, Charleston, West Virginia, for  
Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gilbert L. Spurlock seeks to appeal the district court's order adopting the recommendation of the magistrate judge and dismissing his complaints on jurisdictional and sovereign immunity grounds. "An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3) (2006). Here, the district court denied Spurlock permission to proceed in forma pauperis, certifying in writing that the appeal was not taken in good faith.

We review the district court's denial of leave to proceed in forma pauperis on appeal for abuse of discretion. See Harvey v. Taylor Country Farms, Ltd., 1992 WL 166502, at \*1 (4th Cir. 1992) (No. 91-1849) (unpublished) (citing Williams v. Field, 394 F.2d 329 (9th Cir. 1968)). The district court's certification that the appeal is taken in bad faith controls in the absence of some showing that the district court itself made such a determination in bad faith. See Maloney v. E.I. Du Pont de Nemours & Co., 396 F.2d 939 (D.C. Cir. 1967). We conclude that Spurlock has not made such a showing. Accordingly, we grant the Appellees' motion to dismiss the appeal, deny leave to proceed in forma pauperis, deny Spurlock's motions to subpoena documents, to schedule oral argument, and to proceed without payment of fees, and dismiss the appeal. 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