

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-7989**

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TERRY THOMAS,

Plaintiff - Appellant,

v.

MARY WESTFALL, Medical Director for Correctional Medical Services; DAVID MILLER, Physician Assistant; CORRECTIONAL MEDICAL SERVICES; JAMES RUBENSTEIN; DAVID BALLARD, Warden, Mount Olive Correctional Complex; JANE DOE; JOHN DOE, Unknown defendants who are the agents for Correctional Medical Services, The Division of Corrections, ACA, and the Medical Board Accreditation; WEXFORD MEDICAL SERVICES, INC.; NAOMI ROBERTS, Medical Administrator for Wexford Medical Services at Mount Olive Correctional Complex; JOHN DOE, Unknown agents of Wexford Medical Services. Each Defendant is sued in his or her own personal capacity, and in their official, for injunctive relief,

Defendants - Appellees.

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Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. David A. Faber, Senior District Judge. (2:08-cv-00126)

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Submitted: February 18, 2010

Decided: February 25, 2010

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Before WILKINSON, MICHAEL, and KING, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Terry Thomas, Appellant Pro Se. Joseph M. Farrell, Jr., FARRELL, FARRELL & FARRELL, PLLC, Huntington, West Virginia; Dwayne Edward Cyrus, Jason Eric Wandling, SHUMAN, MCCUSKEY & SLICER, PLLC, Charleston, West Virginia; Philip Cameron Petty, ROSE PADDEN & PETTY, LC, Fairmont, West Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Terry Thomas seeks to appeal the district court's order adopting the report and recommendation of the magistrate judge and dismissing some, but not all, named Defendants from Thomas's 42 U.S.C. § 1983 (2000) 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 Thomas seeks to appeal is neither a final order nor 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