

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-1449

MARK JOHNSON, d/b/a JQ Solutions,

Plaintiff - Appellant,

v.

EDWIN WESTLAKE; WESTEV WW COMMODITIES LLC,

Defendants - Appellees.

Appeal from the United States District Court for the Western
District of North Carolina, at Charlotte. Graham C. Mullen,
Senior District Judge. (3:10-cv-00457-GCM)

Submitted: August 17, 2011

Decided: September 19, 2011

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

Dismissed by unpublished per curiam opinion.

Mark Johnson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mark Johnson seeks to appeal the district court's order dismissing without prejudice his civil complaint for insufficiency of service of process. After the date of that order, but before the effective date of Johnson's notice of appeal, the district court entered an order vacating the order Johnson seeks to appeal and reopening the case. See Fed. R. App. P. 4(a)(4)(A), (B)(i). Thus, the order Johnson seeks to challenge is no longer in effect, and the case is actively proceeding in the district court.

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, 545-46 (1949). In light of the entry by the district court of an order reopening Johnson's case, the order Johnson 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