

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 11-6686**

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ANTHONY JO-ALLEN MCCOY,

Plaintiff - Appellant,

v.

UNKNOWN,

Defendant - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, Chief District Judge. (3:11-cv-00274-JRS)

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Submitted: September 29, 2011

Decided: October 5, 2011

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Before KING, GREGORY, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Anthony Jo-Allen McCoy, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Anthony Jo-Allen McCoy seeks to appeal from the magistrate judge's order construing his 28 U.S.C. § 2254 (2006) petition as a 42 U.S.C. § 1983 (2006) complaint and directing him to amend his complaint and either pay the filing fee or submit an application for leave to proceed in forma pauperis. 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). The order McCoy 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