

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 11-6798**

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PATRICK O'NEAL JACKSON,

Petitioner - Appellant,

v.

WARDEN WILLIE EAGLETON,

Respondent - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Solomon Blatt, Jr., Senior District Judge. (0:11-cv-00933-SB-PJG)

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Submitted: November 15, 2011

Decided: November 17, 2011

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Before NIEMEYER and KEENAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Patrick O'Neal Jackson, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Patrick O'Neal Jackson seeks to appeal the district court's dismissal without prejudice of his 28 U.S.C. § 2254 (2006) petition because he failed to comply with the district court's order to refile his petition on the proper form. Generally, a district court's dismissal of a complaint without prejudice is not appealable. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1067 (4th Cir. 1993) (holding that "a plaintiff may not appeal the dismissal of his complaint without prejudice unless the grounds for dismissal clearly indicate that no amendment [in the complaint] could cure the defects in the plaintiff's case") (alteration in original) (internal quotation marks omitted). However, "if the grounds of the dismissal make clear that no amendment could cure the defects in the plaintiff's case, the order dismissing the complaint is final in fact and [appellate jurisdiction exists]." Id. at 1066 (alteration in original) (internal quotation marks omitted).

In this case, Jackson may be able to save his action by amending his petition to comply with the district court's order. Therefore, the district court's dismissal of Jackson's petition without prejudice is not an appealable final 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