

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-2133

DAVID A. BARDES, individually, as a taxpayer,

Plaintiff - Appellant,

v.

THE STATE OF SOUTH CAROLINA; THE UNITED STATES OF AMERICA;
JOHN DOES; JANE DOES,

Defendants - Appellees.

Appeal from the United States District Court for the Middle
District of North Carolina, at Greensboro. Catherine C. Eagles,
District Judge. (1:11-cv-00999-CCE-LPA)

Submitted: January 28, 2014

Decided: February 7, 2014

Before MOTZ, DAVIS, and WYNN, Circuit Judges.

Affirmed in part; affirmed as modified in part by unpublished
per curiam opinion.

David A. Bardes, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David A. Bardes appeals the district court's order accepting the recommendation of the magistrate judge and dismissing Bardes' civil complaint as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i) (2012). We have reviewed the record and find no reversible error. Accordingly, although we grant Bardes leave to proceed in forma pauperis, we affirm for the reasons stated by the district court. Bardes v. South Carolina, No. 1:11-cv-00999-CCE-LPA (M.D.N.C. Aug. 21, 2013).

Bardes also appeals the district court's text order denying his Motion for Findings of Fact and Conclusions of Law.* We note that Bardes' appeal of the district court's order dismissing his civil complaint was pending in this court at the time the district court entered this text order. Because the text order was not in aid of the pending appeal, the district court was without jurisdiction to enter it. See Wolfe v. Clarke, 718 F.3d 277, 281 n.3 (4th Cir. 2013); Dixon v. Edwards, 290 F.3d 699, 709 n.14 (4th Cir. 2002). Accordingly, we affirm the district court's text order as modified to reflect that the

* Although Bardes did not file an amended notice of appeal to include the district court's text order, his informal appellate brief may serve as a notice of appeal, and we deem it timely filed. See Smith v. Barry, 502 U.S. 244, 248-49 (1992) (holding that appellate brief may serve as notice of appeal provided it otherwise complies with rules governing proper timing and substance).

district court was without jurisdiction to consider Bardes' Motion for Findings of Fact and Conclusions of Law.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED IN PART;
AFFIRMED AS MODIFIED IN PART