

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 15-7892**

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ELBERT SMITH,

Plaintiff - Appellant,

v.

SUE BUNCH, Mailroom Clerk; TERESA PEASE, Mailroom Associate;  
RANDALL C. MATHENA, Warden of Red Onion State Prison; GEORGE  
M. HINKLE, Regional Administrator for the Western Region of  
Virginia; HAROLD W. CLARKE, Director of Virginia Department  
of Corrections,

Defendants - Appellees.

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Appeal from the United States District Court for the Western  
District of Virginia, at Roanoke. James P. Jones, District  
Judge. (7:15-cv-00491-JPJ-RSB)

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Submitted: March 29, 2016

Decided: April 1, 2016

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Before GREGORY and DUNCAN, Circuit Judges, and DAVIS, Senior  
Circuit Judge.

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Dismissed and remanded by unpublished per curiam opinion.

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Elbert Smith, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Elbert Smith seeks to appeal the district court's order dismissing without prejudice his 42 U.S.C. § 1983 (2012) civil rights action as frivolous. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2012), and certain interlocutory and collateral orders. 28 U.S.C. § 1292 (2012); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-47 (1949). Because the deficiencies identified by the district court may be remedied by the filing of an amended complaint, we conclude that the order Smith seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Goode v. Cent. Va. Legal Aid Soc'y, Inc., 807 F.3d 619, 623-24 (4th Cir. 2015); Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993).

Accordingly, we dismiss this appeal for lack of jurisdiction, but we remand this case to the district court to permit Smith to amend his complaint. 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.

DISMISSED AND REMANDED