

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-8531

WAYNE ALLEN STRICKLAND,

Plaintiff - Appellant,

versus

OFFICER BANICK, Roanoke City Police Department,

Defendant - Appellee.

Appeal from the United States District Court for the Western Dis-
trict of Virginia, at Roanoke. Samuel G. Wilson, District Judge.
(CA-95-1283-R)

Submitted: May 16, 1996

Decided: May 31, 1996

Before RUSSELL, LUTTIG, and WILLIAMS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Wayne Allen Strickland, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Appellant appeals from the district court's order dismissing without prejudice his 42 U.S.C. § 1983 (1988) complaint. The district court's dismissal without prejudice is not appealable. See Domino Sugar Corp. v. Sugar Workers' Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). In ascertaining whether a dismissal without prejudice is reviewable in this court, the court must determine "whether the plaintiff could save his action by merely amending the complaint." Id. at 1066-67. A dismissal without prejudice could be a final, appealable order if "no amendment [to the complaint] could cure the defects in the plaintiff's case." Id. at 1067.

Since Appellant could have amended his complaint to assert some claims, we dismiss the appeal for lack of jurisdiction because we find the order is not appealable. 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