

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-7510

ELDON GUY BELL,

Plaintiff - Appellant,

versus

RALPH THOMAS, Sheriff; BARRY JOHNSON, Jailer;
FRANK GALIZIA, Investigator; BOYCE FLOYD,
Investigator,

Defendants - Appellees,

and

DAVID LEOMANS, County Commissioner; BETTY
BELL, County Commissioner; CAROL LONG, County
Commissioner; KIM BENNETT, County Commis-
sioner; OPAL HILL, County Commissioner; JOHN
MORRIS; County Commissioner; BILLY SMITH, SR.,
County Commissioner; ARCHIE PAGE, County Com-
missioner; CARL TILGHMAN, County Commissioner;
WALTER HOUSE, SBI Agent; ANTHONY DENNIS,
Investigator,

Defendants.

Appeal from the United States District Court for the Eastern Dis-
trict of North Carolina, at Raleigh. W. Earl Britt, District Judge.
(CA-94-857-5-BR)

Submitted: December 19, 1996

Decided: January 6, 1997

Before ERVIN and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Eldon Guy Bell, Appellant Pro Se. Cheryl A. Marteney, WARD & SMITH, P.A., New Bern, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant appeals from the district court's order dated August 30, 1996, which adopted the magistrate judge's recommendation to dismiss his 42 U.S.C. § 1983 (1994) action. We dismiss the appeal for lack of jurisdiction because the order is not appealable. In an order entered September 23, 1996, the district court set aside the August order and granted the Appellant's motion for an extension of time in which to file objections to the magistrate judge's report and recommendation. The district court retains jurisdiction pending the disposition of the underlying action. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (1994), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (1994); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order here appealed is neither a final order nor an appealable interlocutory or collateral order.

We grant the Appellees' motion to dismiss the appeal as interlocutory. We further note that the appeal is frivolous. 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