

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-1568

RICHARD HAEFNER, Dr.,

Plaintiff - Appellant,

versus

COUNTY OF LANCASTER, PA,

Defendant - Appellee,

versus

WILLIS J. DIZE, Chief of Police of the Chincoteague Police Department; EDWARD LEWIS, Captain of the Chincoteague Police Department,

Movants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. William T. Prince, Magistrate Judge. (CA-95-41-2)

Submitted: June 19, 1997

Decided: June 27, 1997

Before WILKINS and MICHAEL, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Richard Haefner, Appellant Pro Se. Frank Neil Cowan, COWAN & OWEN,
P.C., Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant appeals a magistrate judge's notation order declining to file his motion to vacate and re-enter judgment pursuant to Fed. R. Civ. P. 60(b) for lack of jurisdiction. Because Haefner had previously filed a notice of appeal to this Court of the underlying order, the magistrate judge was divested of jurisdiction to consider any subsequent motion to amend or vacate the appealed order. See Lewis v. Tobacco Workers' Int'l Union, 577 F.2d 1135, 1139 (4th Cir. 1978). Accordingly, we affirm the magistrate judge's order. We deny Appellees' motion to dismiss this appeal as untimely. 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.

AFFIRMED