

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-7440

KENNETH L. SMITH, JR.,

Plaintiff - Appellant,

versus

WILLIAM D. CATOE, South Carolina Department of
Corrections; BARBARA SKEEN, Director of Health
Services; ROBERT WARD, Warden; PRAVIN R.
PATEL, Doctor,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Greenville. Henry M. Herlong, Jr., District
Judge. (CA-99-2113-6-20AK)

Submitted: January 20, 2000

Decided: February 2, 2000

Before WILLIAMS, MICHAEL, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Kenneth L. Smith, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Kenneth L. Smith, Jr., appeals the district court's order dismissing without prejudice his 42 U.S.C.A. § 1983 (West Supp. 1999) complaint for failure to provide information requested by a magistrate judge to maintain his cause of action. We have reviewed the record and the district court's order and find the court's dismissal without prejudice is not an appealable order. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). In Domino Sugar, we held that the dismissal of a complaint without prejudice may not be appealed unless the district court clearly indicates that the defects in the plaintiff's case cannot be cured by amending and refileing the complaint. The district court in this case left open the possibility that Smith could re-file his complaint and provide the court with the proper information in order to maintain his cause of action. Accordingly, we dismiss the appeal. 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