

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-2547

LEE KENT HEMPFLING,

Plaintiff - Appellant,

versus

LM COMMUNICATIONS OF SOUTH CAROLINA,
INCORPORATED, a Kentucky Corporation; LM
COMMUNICATIONS II OF SOUTH CAROLINA,
INCORPORATED, a Kentucky Corporation,

Defendants - Appellees,

and

LM COMMUNICATIONS INCORPORATED, a Kentucky
Corporation,

Defendant.

Appeal from the United States District Court for the District of
South Carolina, at Charleston. Patrick Michael Duffy, District
Judge. (CA-04-1373-2-23-BG)

Submitted: April 27, 2005

Decided: May 17, 2005

Before TRAXLER and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Lee Kent Hempfling, Appellant Pro Se. Lewis Gregory Cook Horton,
BUIST, MOORE, SMYTHE, MCGEE, PA, Charleston, South Carolina, for
Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Lee Kent Hempfling seeks to appeal the district court's order denying Hempfling's challenge to the magistrate judge's order granting Defendants' motion for extension of time to respond to Hempfling's motion for summary judgment. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order Hempfling seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we dismiss the appeal for lack of jurisdiction. We deny Defendants' motion to declare the appeal frivolous and for an award of fees and costs. 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