

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-1988

JESSEE MCKNIGHT,

Plaintiff - Appellant,

versus

RUBY POIREL,

Defendant - Appellee,

and

WALTER ROBINSON, t/a Calvert Realty Company,

Defendant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. J. Frederick Motz, Chief District Judge. (CA-97-3889-JFM)

Submitted: January 19, 1999

Decided: February 18, 1999

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

Dismissed by unpublished per curiam opinion.

Saul E. Kerpelman, LAW OFFICE OF SAUL E. KERPELMAN, Baltimore, Maryland, for Appellant. Sean D. Hummel, Thomas K. Lehrich, Washington, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant Jesse McKnight appeals the district court's order rescinding a previous order that granted McKnight leave to amend his complaint to add a non-diverse party. We dismiss the appeal for lack of jurisdiction because the order is not appealable. 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. See Able v. Upjohn Co., 829 F.2d 1330, 1333-334 (4th Cir. 1987), overruled on other grounds by Caterpillar Inc. v. Lewis, 519 U.S. 61, 74 n.11 (1996); Melancon v. Texaco, Inc., 659 F.2d 551, 552-53 (5th Cir. Unit A Oct. 1981).

We therefore grant the Appellee's motion to dismiss the appeal as interlocutory. We also grant Appellee's motion to submit the case on the briefs because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process. We deny Appellee's motion for damages pursuant to Fed. R. App. P. 38.

DISMISSED