

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-1494

JESSE 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: October 8, 1999

Decided: November 9, 1999

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

Affirmed by unpublished per curiam opinion.

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

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jesse McKnight appeals from the district court's June 29, 1998, order rescinding its previous order of April 24, 1998, which allowed him to amend his complaint to add Walter Robinson t/a Calvert Realty as a defendant. McKnight argues that the court did not retain jurisdiction to rescind its order or strike Robinson as a defendant. Finding no error, we affirm.

We find that the court retained jurisdiction to reconsider, rescind, or modify its previous non-dispositive order. See Fed. R. Civ. P. 21; Melancon v. Texaco, Inc., 659 F.2d 551, 553 (5th Cir. Unit A Oct. 1981). We also find that the court properly balanced the equitable interests in determining that Robinson should not be added as a party based upon McKnight's failure to serve Robinson; the lack of proof that Robinson was presently a non-diverse, necessary, and indispensable party; and the fact that McKnight may have sought the joinder to defeat diversity jurisdiction. See Fed. R. Civ. P. 19; Hensgens v. Deere & Co., 833 F.2d 1179, 1182 (5th Cir. 1987).

We therefore affirm the judgment. 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