

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-7061

WALLACE MITCHELL-EL; MICHAEL PAGE; EARNEST JOYNER,

Plaintiffs - Appellants,

and

CARROLL MONTGOMERY; CLARK BROOKS; CHARLES
WILKINS; WILLIAM D. GARNER; CLARENCE PAIGE-EL;
CHARLES LINK; GARFIELD RATCLIFF; REGINALD
GAITHER; KEVIN BUTLER; KEVIN KING; MIRAIL AL
MALIK; JAVIER CARD,

Plaintiffs,

versus

Y. ELSWICK, Treatment Programs Supervisor, Red
Onion State Prison; DAVID YERGER, M.D., Red
Onion State Prison; GEORGE E. DEEDS, Warden,
Red Onion State Prison; J. RASNAKE, Correc-
tional Officer, Red Onion State Prison; EDWARD
C. MORRIS, Deputy Director, Virginia Depart-
ment of Corrections; RONALD ANGELONE, Direc-
tor, Virginia Department of Corrections;
MARGARET A. MOORE, District of Columbia De-
partment of Corrections; EDMUND P. WALSH,
Administrator, DC Department of Corrections,
Case Management Services; JOHN H. THOMAS,
Executive Deputy Director, DC Department of
Corrections; CALVIN R. EDWARDS, Interim Di-
rector, DC Department of Corrections; JAMES F.
MURPHY, Warden, Maximum Security Facility at
Lorton, Virginia; LACY GILCHRIST, Case Mana-
ger, Maximum Security Facility at Lorton, Vir-
ginia; IRMA BRADY, Case Manager Chief, Maximum

Security Facility at Lorton, Virginia; CASE MANAGER COBB, Maximum Security Facility at Lorton, Virginia; JOHN L. CLARK, Federal Corrections Trustee, Federal Bureau of Prisons, Washington, DC; VICTOR LOY, Warden, Central Facility at Lorton, Virginia; JOSEPHINE DUMAS, Case Manager, Central Facility at Lorton, Virginia-All of the above individuals sued in their personal and professional capacities; VIRGINIA DEPARTMENT OF CORRECTIONS; DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS; R. FLEMING, Captain; L. FLEMING, Captain; RONALD FOWLER, Lieutenant; D. A. TAYLOR, Lieutenant; DR. BINKER; J. BOLLING; E. MULLINS; DOCTOR REZA; DR. PAIGE; ROBERT FULTON, Major; NURSE LAMB; W. E. MULLINS, Nurse; NURSE WOLFE; NURSE BROWNING; HELEN DUNCAN; A. YOUNG; DR. HARRIS; DR. HARRISON; D. FLEMING; J. ROSE; RUTHERFORD; S. SAWYER; CHAPLAIN GARRICK; T. CORNETT; L. C. HILL; LYNN GARLOCK; V. MULLINS; S. K. YOUNG; PATRICIA RICH; R. FARMER; T. DAVIS; D. MCKNIGHT; R. ROWLETTE, Major,

Defendants - Appellees.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Samuel G. Wilson, Chief District Judge. (CA-99-51-7)

Submitted: January 13, 2000

Decided: January 19, 2000

Before WIDENER, WILKINS, and LUTTIG, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Wallace Mitchell-El, Michael Page, Earnest Joyner, Appellants Pro Se.

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

PER CURIAM:

Wallace Mitchell-El, Michael Page, and Earnest Joyner appeal from the district court's orders dismissing without prejudice their complaint pursuant to 42 U.S.C. § 1983 (West Supp. 1999) and denying their motion for reconsideration. A dismissal without prejudice is a final order only if "'no amendment [to the complaint] could cure the defects in the plaintiff's case.'" See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). In ascertaining whether a dismissal without prejudice is reviewable in this court, we must determine whether the Appellants "could save [the] action by merely amending [the] complaint." Id. Because the grounds for dismissal of this action show that the Appellants could save the action by refileing in the district court, the dismissal order and the order denying reconsideration are not appealable. Accordingly, we dismiss the appeal for lack of jurisdiction. We deny the motion for appointment of counsel and 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