

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

KEITH WILLIAM DEBLASIO,

Plaintiff-Appellant.

and

DONALD WELLS; S. BATTS; D.
WILSON; D. MCBRIDE; JOHN HARRIS;
ERIC HOBBS; NASH,
Plaintiffs.

No. 99-7723

v.

GENE M. JOHNSON, Deputy Director,
Virginia Department of Corrections;
RON ANGELONE, Director, Virginia
Department of Corrections,
Defendants-Appellees.

Appeal from the United States District Court

for the Eastern District of Virginia, at Alexandria.
Claude M. Hilton, Chief District Judge.

(CA-99-1818-AM)

Submitted: July 27, 2000

Decided: September 13, 2000

Before WIDENER and MURNAGHAN,* Circuit Judges, and

HAMILTON, Senior Circuit Judge.

*Murnaghan was assigned to the panel in this case but died prior to the time the decision was filed. The decision is filed by a quorum of the panel pursuant to 28 U.S.C. § 46(d).

Affirmed in part and dismissed in part by unpublished per curiam opinion.

COUNSEL

Keith William DeBlasio, Appellant Pro Se. Rick Randall Linker, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Plaintiffs appeal the district court's order denying their motions for a temporary restraining order or preliminary injunction, for class certification, and for appointment of counsel. We affirm in part, and dismiss in part.

To the extent that Plaintiffs appeal the denial of a temporary restraining order, such a denial is not immediately appealable and must be dismissed as interlocutory. See Virginia v. Tenneco, Inc., 538 F.2d 1026, 1029-30 (4th Cir. 1976). To the extent that they appeal the denial of preliminary injunctive relief, we have reviewed the record and the district court's order and find no abuse of discretion. We therefore affirm. See South Carolina Dep't of Wildlife & Marine Resources v. Marsh, 866 F.2d 97, 99 (4th Cir. 1989) (providing standard).

As to Plaintiffs' motion for class certification, we find that the district court did not abuse its discretion in denying this motion, and accordingly, we affirm. See Simmons v. Poe, 47 F.3d 1370, 1380 (4th Cir. 1995) (providing standard).

Finally, as to the denial of Plaintiffs' motion for appointment of counsel, 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). A denial of a motion for appointment of counsel is neither a final order nor an appealable interlocutory or collateral order. See Miller v. Simmons, 814 F.2d 962, 967 (4th Cir. 1987). Accordingly, it must be dismissed as interlocutory.

We therefore affirm in part, and dismiss in part. 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 IN PART; DISMISSED IN PART