FILED: November 22, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-1470
(2:20-cv-01748-BHH)

C. HOLMES, a/k/a Cynthia Holmes, a/k/a Cynthia Holmes, M.D., a/k/a Cynthia Collie Holmes

Plaintiff - Appellant

v.

GRANUAILE, LLC; J. P. WALSH, individually and as related to Granuaile, LLC; L. WALSH, individually and as related to Granuaile, LLC

Defendants - Appellees

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

The court grants the motion to exceed the length limitations for the petition.

Entered at the direction of the panel: Chief Judge Gregory, Judge Agee, and Senior Judge Shedd.

For the Court

/s/ Patricia S. Connor, Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-1470

C. HOLMES, a/k/a Cynthia Holmes, a/k/a Cynthia Holmes, M.D., a/k/a Cynthia Collie Holmes,

Plaintiff - Appellant,

v.

GRANUAILE, LLC; J. P. WALSH, individually and as related to Granuaile, LLC; L. WALSH, individually and as related to Granuaile, LLC,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Bruce H. Hendricks, District Judge. (2:20-cv-01748-BHH)

Submitted: October 19, 2021 Decided: October 21, 2021

Before GREGORY, Chief Judge, AGEE, Circuit Judge, and SHEDD, Senior Circuit Judge.

Dismissed and remanded by unpublished per curiam opinion.

C. Holmes, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

C. Holmes seeks to appeal the district court's orders adopting the recommendation of the magistrate judge, dismissing Holmes' civil complaint without prejudice, and denying her motion for reconsideration. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291, and certain interlocutory and collateral orders, 28 U.S.C. § 1292; Fed. R. Civ. P. 54(b), *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-47 (1949). "[D]ismissals without prejudice generally are not appealable 'unless the grounds for dismissal clearly indicate that no amendment in the complaint could cure the defects in the plaintiff's case.'" *Bing v. Brivo Sys., LLC*, 959 F.3d 605, 610 (4th Cir. 2020) (quoting *Domino Sugar Corp. v. Sugar Workers Loc. Union 392*, 10 F.3d 1064, 1067 (4th Cir. 1993)), *cert. denied*, 141 S. Ct. 1376 (2021).

Here, the district court dismissed the complaint but did not direct the clerk's office to close the case. *See id.* at 611-12, 614. Furthermore, the district court did not grant Holmes an opportunity to amend her complaint before dismissing, and Holmes's appeal does not appear to indicate an intent to stand on her complaint. *See id.* at 612. Thus, we conclude that the district court's order is neither a final order nor an appealable interlocutory order. Accordingly, we dismiss the appeal for lack of jurisdiction. We direct on remand that the district court, in its discretion, either afford Holmes an opportunity to amend or dismiss the complaint with prejudice, thereby rendering the dismissal order a final, appealable judgment. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED AND REMANDED