

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-1441

JAVID BAYANDOR,

Plaintiff - Appellant,

v.

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY;
THANASSIS RIKAKIS, in his official capacity as Provost of Virginia Polytechnic
Institute and State University and in his individual capacity,

Defendants - Appellees,

and

BOARD OF VISITORS, Virginia Polytechnic Institute And State University;
COMMONWEALTH OF VIRGINIA,

Defendants.

Appeal from the United States District Court for the Western District of Virginia, at
Roanoke. Elizabeth Kay Dillon, District Judge. (7:18-cv-00026-EKD)

Submitted: January 29, 2020

Decided: March 17, 2020

Before THACKER, HARRIS, and QUATTLEBAUM, Circuit Judges.

Dismissed and remanded by unpublished per curiam opinion.

Thomas E. Strelka, STRELKA LAW OFFICE, PC, Roanoke, Virginia, for Appellant. Mark R. Herring, Attorney General, Cynthia V. Bailey, Deputy Attorney General, Deborah A. Love, Senior Assistant Attorney General, Toby J. Heytens, Solicitor General, Michelle S. Kallen, Deputy Solicitor General, Martine E. Cicconi, Deputy Solicitor General, Zachary R. Glubiak, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia; Kay Heidbreder, University Legal Counsel, M. Hudson McClanahan, Associate University Legal Counsel, VIRGINIA POLYTECHNIC INSTITUTE & STATE UNIVERSITY, Blacksburg, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Javid Bayandor appeals the district court's order dismissing his complaint in part with prejudice and in part without prejudice. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2018), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2018); Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). "An order dismissing a complaint without prejudice is not an appealable final order under § 1291 if 'the plaintiff could save his action by merely amending his complaint.'" *Goode v. Cent. Va. Legal Aid Soc'y, Inc.*, 807 F.3d 619, 623 (4th Cir. 2015) (quoting *Domino Sugar Corp. v. Sugar Workers Local Union* 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993)). Here, the district court explicitly provided Bayandor with an opportunity to amend his complaint evidencing an intent that its order of dismissal was not intended to end the case. Thus, we conclude that the court's order is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we dismiss the appeal for lack of jurisdiction

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