

JAN 24 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JEFFREY THORNTON HALEY,

Plaintiff - Appellant,

v.

JAN MICHELS; et al.,

Defendants - Appellees.

No. 07-35130

D.C. No. CV-06-01191-JLR

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
James L. Robart, District Judge, Presiding

Submitted January 14, 2008**

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Jeffrey Thornton Haley, a Washington attorney who was suspended from the practice of law for misconduct, appeals pro se from the district court's judgment dismissing for lack of subject matter jurisdiction his action under

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

42 U.S.C. § 1983 alleging constitutional violations arising out of his State Bar disciplinary proceedings. We lack jurisdiction to hear this appeal and therefore dismiss.

Finality is a jurisdictional question, and must be considered by this court sua sponte. *See WMX Techs., Inc. v. Miller*, 104 F.3d 1133, 1135 (9th Cir. 1997) (en banc). Although not raised by either party, the record indicates that the district court dismissed the claims against defendants Jan Michels, Anne Seidel, and Jonathan Burke, but Haley’s claims against defendants C.J. Merritt and Barbara Miner remain pending. When multiple parties are involved, the district court may direct entry of a final judgment as to one or more, but fewer than all, parties only if the district court expressly determines that there is “no just reason for delay.” Fed. R. Civ. P. 54(b). The district court failed to certify that there was “no just reason for delay,” a jurisdictional prerequisite that we have construed strictly. *Frank Briscoe Co. v. Morrison-Knudsen Co.*, 776 F.2d 1414, 1416 (9th Cir. 1985). Therefore, the district court order is not final and appealable.

DISMISSED.