

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-1043

Gary Eugene Graham,

Appellant,

v.

Falls City Prosecutor; Maria Moran,
Prosecutor; Falls City Sheriff's
Department,

Appellees.

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* Appeal from the United States
* District Court for the
* District of Nebraska.
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* [UNPUBLISHED]
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Submitted: October 19, 2004

Filed: October 26, 2004

Before MURPHY, FAGG, and SMITH, Circuit Judges.

PER CURIAM.

Gary Graham appeals the district court's¹ order dismissing two defendants in this 42 U.S.C. § 1983 action. Because the order allowed process to be served upon the third defendant, the order is not final under 28 U.S.C. § 1291, and we lack jurisdiction to review it at this time. See 28 U.S.C. § 1291 (courts of appeals have jurisdiction over appeals from final decisions of district courts); Bullock v. Baptist

¹The Honorable Joseph F. Bataillon, United States District Judge for the District of Nebraska.

Mem'l Hosp., 817 F.2d 58, 59 (8th Cir. 1987) (order dismissing complaint as to fewer than all defendants is not final order within meaning of § 1291).

We deny as moot his pending motion.

Accordingly, we dismiss the appeal as premature.
