

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7436

ANGELO GALLOWAY,

Petitioner - Appellant,

v.

ERIC WILSON,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Mark S. Davis, District Judge. (2:16-cv-00348-MSD-LRL)

Submitted: February 28, 2017

Decided: April 12, 2017

Before SHEDD, KEENAN, and HARRIS, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

Angelo Galloway, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Angelo Galloway, a federal prisoner, appeals the district court's order dismissing his 28 U.S.C. § 2241 (2012) petition for lack of jurisdiction. We review the district court's dismissal order de novo. See Yi v. Fed. Bureau of Prisons, 412 F.3d 526, 530 (4th Cir. 2005). Upon a thorough review of the record, we conclude that the district court properly determined that it lacked authority to consider the merits of Galloway's claims under § 2241, as he failed to demonstrate that 28 U.S.C. § 2255 (2012) was "inadequate or ineffective to test the legality of his detention." 28 U.S.C. § 2255(e); see In re Jones, 226 F.3d 328, 333-34 (4th Cir. 2000) (describing test).

Accordingly, although we grant leave to proceed in forma pauperis, we modify the district court's dismissal to one without prejudice and affirm as modified for the reasons stated by the district court. Galloway v. Wilson, No. 2:16-cv-00348-MSD-LRL (E.D. Va. Oct. 4, 2016); see S. Walk at Broadlands Homeowner's Ass'n, Inc. v. OpenBand at Broadlands, LLC, 713 F.3d 175, 185 (4th Cir. 2013) (recognizing that dismissal for defect in subject matter jurisdiction "must be one without prejudice"). We deny Galloway's motions for bail or release pending appeal and for summary 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.

AFFIRMED AS MODIFIED