

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-2173

MARCUS SMITH,

Plaintiff - Appellant,

v.

LOWES COMPANIES, INC.,

Defendant - Appellee.

Appeal from the United States District Court for the Western District of North Carolina, at
Charlotte. Robert J. Conrad, Jr., District Judge. (3:21-cv-00034-RJC-SCR)

Submitted: March 12, 2024

Decided: March 14, 2024

Before GREGORY, RICHARDSON, and BENJAMIN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Marcus Smith, Appellant Pro Se. Margaret Manos, Frederick Thomas Smith, SEYFARTH
SHAW, LLP, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marcus Smith appeals the district court's order accepting the recommendation of the magistrate judge and dismissing Smith's complaint for failure to timely exhaust administrative remedies. We have reviewed the record and find no reversible error.* Accordingly, we affirm the district court's order. *Smith v. Lowes Cos.*, No. 3:21-cv-000034-RJC-SCR (W.D.N.C. Aug. 30, 2023). 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

* To the extent Smith seeks to supplement the record on appeal, we decline to consider evidence that was not presented to the district court. *See* Fed. R. App. P. 10(a); *United States v. Redd*, 85 F.4th 153, 168 n.13 (4th Cir. 2023) (“[T]he proper setting for developing the record is in the district court, not this Court in the first instance.”).