

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 23-6000

JAMES CODY CAMPBELL,

Plaintiff - Appellant,

v.

RAPPAHANOCK REGIONAL JAIL,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. T. S. Ellis, III, Senior District Judge. (1:22-cv-01376-TSE-LRV)

Submitted: February 21, 2023

Decided: February 24, 2023

Before NIEMEYER and DIAZ, Circuit Judges, and MOTZ, Senior Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

James Cody Campbell, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Cody Campbell appeals the district court's order dismissing without prejudice his 42 U.S.C. § 1983 complaint for failure to notify the court of a change in his address. We review for abuse of discretion a district court's dismissal for failure to prosecute. *See Attkisson v. Holder*, 925 F.3d 606, 625 (4th Cir. 2019). Our review of the record reveals that, although the district court's December 5, 2022, order was returned without delivery to Campbell, it does not appear that Campbell failed to provide the court with his correct, current address. The record does not reveal why the district court's order was returned as undeliverable, but Campbell has since sent and received documents at the mailing address he provided in his complaint, and maintains that his address did not change. Because it is not clear that Campbell failed to update his address with the court, we conclude that the dismissal constituted an abuse of discretion. *See Scott v. Fam. Dollar Stores, Inc.*, 733 F.3d 105, 112 (4th Cir. 2013) (noting that a "district court abuses its discretion by resting its decision on a clearly erroneous finding of a material fact" (internal quotation marks omitted)).

Accordingly, we vacate the district court's order dismissing Campbell's complaint and remand for further proceedings. 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.

VACATED AND REMANDED