

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 14-13300
Non-Argument Calendar

D.C. Docket No. 1:14-cv-20705-UU

GERALD ALEXANDER,

Plaintiff-Appellant,

versus

CRYSTAL A. BRADSHAW,
Property Room Employee,
COLONEL DAVID MCCARTER,
R. DYKES,
Assistant Warden,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

(April 24, 2015)

Before JORDAN, JILL PRYOR, and ANDERSON, Circuit Judges.

PER CURIAM:

Gerald Alexander, a prisoner proceeding *pro se*, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint for failure to state a claim for relief.

On appeal, Alexander argues that the district court should not have dismissed his complaint without giving him leave to amend to state a constitutional claim.

Alexander asserts that, if given the opportunity to amend the complaint, he would have been able to establish that the defendants were deliberately indifferent and violated his Eighth and Fourteenth Amendment rights. We review a district court's decision to grant or deny leave to amend for an abuse of discretion. *Hollywood Mobile Estates Ltd. v. Seminole Tribe of Fla.*, 641 F.3d 1259, 1264 (11th Cir. 2011).

We have held that, where a more carefully drafted complaint might state a claim, the plaintiff must be given at least one opportunity to amend the complaint before the action is dismissed *with prejudice*. *Bank v. Pitt*, 928 F.2d 1108, 1112 (11th Cir. 1991), *overruled in part by Wagner v. Daewoo Heavy Indus. Am. Corp.*, 314 F.3d 541, 542 (11th Cir. 2002) (*en banc*). Here, however, the district court dismissed the case *without prejudice*. Where an action is dismissed without prejudice, the plaintiff may refile before the expiration of the applicable statute of limitations. Given that Alexander may refile his case within the statute of

limitations, the Court cannot say the district court abused its discretion by denying leave to amend and dismissing the case without prejudice.

AFFIRMED.