

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-1627

HENRY UCHE OKPALA,

Plaintiff - Appellant,

v.

COMPUTER SCIENCES CORPORATION, CSC,

Defendant - Appellee,

and

ROBIN SCHERMERHORN, CSC; DAVID H. MARTIN, CSC; WILLIAM
SHOCKRO, CSC; CENTERS FOR MEDICARE & MEDICAID SERVICES, CMS,
Third Party,

Defendants.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. J. Frederick Motz, Senior District
Judge. (1:13-cv-03614-JFM)

Submitted: November 24, 2014

Decided: November 26, 2014

Before WYNN and DIAZ, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

Henry Uche Okpala, Appellant Pro Se. Brendan M. Greene, Samuel
Zurik, III, KULLMAN FIRM, PC, New Orleans, Louisiana; Frank

Daniel Wood, Jr., KULLMAN FIRM, Birmingham, Alabama, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Henry Uche Okpala appeals the district court's order dismissing with prejudice his wrongful termination action for misconduct during discovery. We vacate and remand for further proceedings.

A district court may dismiss a civil action if a party fails to comply with a discovery order or attend a properly noticed deposition. Fed. R. Civ. P. 37(b), (d). Such dismissals are reviewed for an abuse of discretion. Nat'l Hockey League v. Metro. Hockey Club, Inc., 427 U.S. 639, 642 (1976); see Mut. Fed. Sav. & Loan Ass'n v. Richards & Assocs., Inc., 872 F.2d 88, 92 (4th Cir. 1989) (discussing factors courts consider before imposing sanctions under Rule 37); see also Ballard v. Carlson, 882 F.2d 93, 95 (4th Cir. 1989) (setting forth factors courts entertaining dismissal under Fed. R. Civ. P. 41(b) should consider). We require district courts "to provide explicit and clear notice when they intend to dismiss the plaintiff's action with prejudice" as a sanction for misconduct. Choice Hotels Int'l, Inc. v. Goodwin & Boone, 11 F.3d 469, 471-72 (4th Cir. 1993).

Upon review of the record, we conclude that the district court failed to provide such notice before ordering the dismissal of Okpala's suit. Accordingly, we vacate the order of dismissal and remand for proceedings consistent with this

opinion. 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