

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6594

ALLAH BURMAN,

Petitioner - Appellant,

v.

WARDEN R. A. PERDUE; M. SMITH, Lt.; T. VANERNICK, Lt.,

Respondents - Appellees.

Appeal from the United States District Court for the Northern District of West Virginia, at
Wheeling. Frederick P. Stamp, Jr., Senior District Judge. (5:14-cv-00153-FPS-RWT)

Submitted: May 9, 2017

Decided: May 22, 2017

Before GREGORY, Chief Judge, and SHEDD and KEENAN, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

Allah Burman, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Allah Burman, a federal prisoner, appeals the district court's order adopting the recommendation of the magistrate judge and dismissing his 28 U.S.C. § 2241 (2012) petition with prejudice. We have reviewed the record and find no reversible error in the district court's conclusion that Burman failed to show that 28 U.S.C. § 2255 (2012) was inadequate or ineffective to test the legality of his detention. However, because the district court lacked jurisdiction, the dismissal should be without prejudice. *See Fed. R. Civ. P. 41(b); Rice v. Rivera*, 617 F.3d 802, 807-08 (4th Cir. 2010). Accordingly, we affirm the dismissal for the reasons stated by the district court, *see Burman v. Perdue*, No. 5:14-cv-00153-FPS-RWT (N.D.W. Va. Apr. 9, 2015), but we modify the dismissal to be without prejudice, *see* 28 U.S.C. § 2106 (2012). We grant Burman leave to proceed in forma pauperis on appeal but deny his other pending motions. 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