

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 15-6651**

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JAMES MCCODE,

Plaintiff - Appellant,

v.

JOEL ZIEGLER,

Defendant - Appellee.

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Appeal from the United States District Court for the Southern District of West Virginia,  
at Beckley. Irene C. Berger, District Judge. (5:13-cv-21542)

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Submitted: April 24, 2017

Decided: May 10, 2017

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Before MOTZ, SHEDD, and DIAZ, Circuit Judges.

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Affirmed as modified by unpublished per curiam opinion.

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James McCode, Appellant Pro Se. Stephen Michael Horn, Assistant United States  
Attorney, Meredith George Thomas, OFFICE OF THE UNITED STATES ATTORNEY,  
Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

James McCode, 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. We have reviewed the record and find no reversible error in the district court's conclusions that McCode failed to satisfy his burden of demonstrating that 28 U.S.C. § 2255 (2012) is an inadequate or ineffective means of challenging the validity of his detention and that it lacked jurisdiction over his petition. Accordingly, we grant leave to proceed in forma pauperis and affirm the dismissal for lack of jurisdiction, *see McCode v. Ziegler*, No. 5:13-cv-21542 (S.D. W. Va. Jan. 27, 2015), but modify the dismissal to be without prejudice, 28 U.S.C. § 2106 (2012). 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*