

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 16-6110**

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MICHAEL D. JAMES,

Plaintiff - Appellant,

v.

DANIEL COTTER, Perry CI Contraband Sgt; D. BURCINSKI,  
Contraband Cpl; S. DUFFY, Administrative Captain, Perry CI,

Defendants - Appellees.

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Appeal from the United States District Court for the District of  
South Carolina, at Beaufort. Terry L. Wooten, Chief District  
Judge. (9:14-cv-04518-TLW)

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Submitted: August 3, 2016

Decided: September 8, 2016

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Before GREGORY, Chief Judge, and WYNN and FLOYD, Circuit Judges.

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Vacated and remanded by unpublished per curiam opinion.

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Michael D. James, Appellant Pro Se. James Victor McDade, DOYLE,  
O'ROURKE, TATE & MCDADE, PA, Anderson, South Carolina, for  
Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael D. James seeks to appeal the district court's order accepting the recommendation of the magistrate judge, granting summary judgment to defendants, and dismissing his 42 U.S.C. § 1983 (2012) complaint without prejudice for failure to exhaust administrative remedies. Upon review, we vacate the district court's order and remand the case with instructions to allow James a reasonable time to exhaust his administrative remedies and then, if necessary, move to amend his complaint. We deny James' motion for appointment of counsel and 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