UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6250

TOMMY OWENS,

Plaintiff - Appellant,

v.

EARL M. BUTLER, Sheriff; CHIEF DEPUTY SHERIFF WRIGHT,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Louise W. Flanagan, District Judge. (5:15-ct-03033-FL)

Submitted: October 28, 2016 Decided: March 8, 2017

Before MOTZ and FLOYD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed as modified by unpublished per curiam opinion.

Tommy Owens, Appellant Pro Se. Ronnie Monroe Mitchell, CUMBERLAND COUNTY SHERIFF'S OFFICE, Fayetteville, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tommy Owens appeals the district court's order denying relief on his 42 U.S.C. § 1983 (2012) complaint. We have reviewed the record and conclude that a genuine dispute of material fact exists regarding whether Owens exhausted his administrative remedies. However, we conclude that the district court correctly held in the alternative that Defendants are entitled to qualified immunity. See United States ex rel. Drakeford v. Tuomey, 792 F.3d 364, 375 (4th Cir. 2015) ("[W]e may affirm a district court's ruling on any ground apparent in the record.") Accordingly, we affirm the district court's order and modify the order to reflect a dismissal with prejudice. Owens v. Butler, No. 5:15-ct-03033-FL (E.D.N.C. Feb. 9, 2016). 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