

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6975

JOVON DAVIS,

Plaintiff - Appellant,

v.

VIRGINIA DEPARTMENT OF CORRECTIONS; HAROLD CLARK, Virginia
Department of Corrections Director; JAMES KEELING, Warden;
DR. JAMES BROCKINGTON; DR. SYED RAZA, I.C.C.C. Tel-Med
Mitt. Clinic; PAMELA WOODS, Unit Manager; LIEUTENANT
TAYLOR; OFFICER POWERS, Correctional Officer,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. Claude M. Hilton, Senior
District Judge. (1:16-cv-00327-CMH-TCB)

Submitted: November 8, 2016

Decided: November 29, 2016

Before AGEE and FLOYD, Circuit Judges, and DAVIS, Senior Circuit
Judge.

Vacated and remanded by unpublished per curiam opinion.

Jovon Davis, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jovon Davis appeals the district court's order dismissing his 42 U.S.C. § 1983 (2012) complaint without prejudice for failure to comply with its prior order. See Fed. R. Civ. P. 41(b). We review the district court's order for abuse of discretion. Ballard v. Carlson, 882 F.2d 93, 95-96 (4th Cir. 1989). "A court abuses its discretion if its decision is guided by erroneous legal principles or rests upon a clearly erroneous factual finding." United States v. McLean, 715 F.3d 129, 142 (4th Cir. 2013) (internal quotation marks omitted).

The district court dismissed Davis' complaint because it found that Davis had not responded to an order requiring Davis to submit several documents within 30 days. On appeal, Davis contends that he submitted the required documents for mailing to the prison mailroom. The record demonstrates that Davis initially sent the requested materials to the wrong district court. The required documents were filed with the correct court before the district court entered its order, although about two weeks after the 30-day deadline. While the district court may yet determine that the tardiness of Davis' filings warrants dismissal, we conclude that the district court relied "upon a clearly erroneous factual finding" when dismissing the complaint for failure to respond to the court's order. Id. (internal

quotation marks omitted). Accordingly, we vacate the district court's order and remand for further proceedings.

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