

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-1989

ANTHONY BRAXTON,

Plaintiff - Appellant,

v.

MRS. ERICA BOGGESS,

Defendant - Appellee.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Irene C. Berger, District Judge. (2:22-cv-00246)

Submitted: November 13, 2023

Decided: December 19, 2023

Before NIEMEYER and HEYTENS, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Affirmed as modified by unpublished per curiam opinion.

Anthony James Braxton, Appellant Pro Se. Michael Matthew Fisher, JACKSON KELLY PLLC, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Anthony Braxton appeals the district court's order accepting the recommendation of the magistrate judge and dismissing his complaint for lack of subject-matter jurisdiction under Fed. R. Civ. P. 12(h)(3). We have reviewed the record and find no reversible error. Accordingly, we deny Braxton's pending motions and affirm the district court's order, *see Braxton v. Boggess*, No. 2:22-cv-00246 (S.D.W. Va. Aug. 23, 2022; Aug. 11, 2022), but we modify the dismissal to be without prejudice, *see Ali v. Hogan*, 26 F.4th 587, 600 (4th Cir. 2022). 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