

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6060

JIHAD GARRETT,

Petitioner - Appellant,

v.

R. M. WOLFE, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Northern District of West Virginia, at
Wheeling. John Preston Bailey, District Judge. (5:22-cv-00202-JPB-JPM)

Submitted: February 27, 2024

Decided: February 29, 2024

Before WILKINSON, WYNN, and HARRIS, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

Jihad Garrett, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jihad Garrett, a federal prisoner, appeals the district court's order denying his 28 U.S.C. § 2241 petition and motion for reconsideration in which he sought to challenge his 18 U.S.C. § 924(c) conviction by way of the savings clause in 28 U.S.C. § 2255(e). In light of the Supreme Court's decision in *Jones v. Hendrix*, 599 U.S. 465, 477-80 (2023), we conclude that Garrett may not pursue his challenges in a § 2241 petition. Because the district court lacked jurisdiction over Garrett's petition, *see Rice v. Rivera*, 617 F.3d 802, 807-08 (4th Cir. 2010), we modify the district court's orders to reflect dismissal without prejudice of the § 2241 claims, *see Ali v. Hogan*, 26 F.4th 587, 600 (4th Cir. 2022) (recognizing that dismissal based on "defect in subject matter jurisdiction . . . must be one without prejudice" (internal quotation marks omitted)), and affirm the orders as modified, *see* 28 U.S.C. § 2106. *Garrett v. Wolfe*, No. 5:22-cv-00202-JPB-JPM (N.D.W. Va. Sept. 6 & Nov. 29, 2022). We deny Garrett's motion to appoint or assign counsel, to transfer case, and to dismiss appeal 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.

AFFIRMED AS MODIFIED