

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1690

HERBERT MCCOY, JR.,

Plaintiff - Appellant,

v.

DANIEL P. DRISCOLL, Secretary of the Army,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (1:24-cv-01932-LMB-WBP)

Submitted: October 30, 2025

Decided: November 4, 2025

Before RUSHING and BENJAMIN, Circuit Judges, and KEENAN, Senior Circuit Judge.

Affirmed as modified by unpublished per curiam opinion.

Herbert McCoy, Jr., Appellant Pro Se. Tanzania R. Jaysura, Kirstin O'Connor, Assistant United States Attorneys, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Herbert McCoy, Jr., appeals the district court's order granting Defendant's motion to dismiss and dismissing McCoy's civil action for lack of subject matter jurisdiction and failure to state a claim. We have reviewed the record and discern no reversible error. Accordingly, we affirm the district court's order, *McCoy v. Driscoll*, No. 1:24-cv-01932-LMB-WBP (E.D. Va. Apr. 17, 2025), as modified to reflect that the dismissal of McCoy's claims for lack of subject matter jurisdiction is without prejudice, *see S. Walk at Broadlands Homeowner's Ass'n, Inc. v. OpenBand at Broadlands, LLC*, 713 F.3d 175, 185 (4th Cir. 2013) ("A dismissal for lack of . . . subject matter jurisdiction . . . must be one without prejudice, because a court that lacks jurisdiction has no power to adjudicate and dispose of a claim on the merits."). 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