

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 25-2285**

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JOHN MICHAEL SCARDINA,

Plaintiff - Appellant,

v.

ELAINE FOLK MARSHALL; JENNIFER GRIFFIN,

Defendants - Appellees.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (5:25-cv-00008-BO-BM)

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Submitted: April 28, 2026

Decided: April 30, 2026

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Before WILKINSON and GREGORY, Circuit Judges, and TRAXLER, Senior Circuit Judge.

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Affirmed as modified by unpublished per curiam opinion.

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John Michael Scardina, Appellant Pro Se. Erin H. Epley, James R. Morgan, Jr., WOMBLE BOND DICKINSON (US) LLP, Winston-Salem, North Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Michael Scardina appeals the district court's order adopting the recommendation of the magistrate judge and dismissing his civil action for failure to state a claim and for lack of subject matter jurisdiction. We have reviewed the record and find no reversible error. Accordingly, we modify the portion of the district court's order dismissing for lack of subject matter jurisdiction, *Scardina v. Marshall*, No. 5:25-cv-00008-BO-BM (E.D.N.C. Sept. 30, 2025), to reflect dismissal without prejudice, *see Goldman v. Brink*, 41 F.4th 366, 369 (4th Cir. 2022) (noting that dismissal for lack of subject matter jurisdiction must be without prejudice because court lacking jurisdiction "has no power to adjudicate and dispose of a claim on the merits" (internal quotation marks omitted)), and affirm the order as so modified, *see id.*; 28 U.S.C. § 2106; *Rohan v. Networks Presentations LLC*, 375 F.3d 266, 268 n.1 (4th Cir. 2004) ("We are entitled to affirm the [district] court's judgment on alternate grounds, if such grounds are apparent from the record." (citation modified)).

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*