**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 20-7290**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LEO VISTOR PERCELL, JR.,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. N. Carlton Tilley, Jr., Senior District Judge. (1:19-cr-00190-NCT-1)

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Submitted: November 19, 2021 Decided: December 16, 2021

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Before MOTZ, THACKER, and RICHARDSON, Circuit Judges.

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Vacated and remanded by unpublished per curiam opinion.

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Leo Vistor Percell, Jr., Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Leo Vistor Percell, Jr., appeals the district court's order dismissing his 18 U.S.C. § 3582(c)(1)(A)(i) motion for compassionate release. Before seeking compassionate release in the district court, an inmate must satisfy the threshold requirement of 18 U.S.C. § 3582(c)(1)(A). However, as we recently held, this requirement is nonjurisdictional and, thus, subject to forfeiture or waiver if not timely raised. *See United States v. Muhammad*, 16 F.4th 126, 129-30 (4th Cir. 2021).

Here, the district court—which did not have the benefit of our decision in *Muhammad*—erred by sua sponte raising the threshold requirement and dismissing on that basis. *See id.* at 130. 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*