

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1238

In re: ALEXANDER OTIS MATTHEWS,

Petitioner,

On Petition for Writ of Mandamus.
(1:11-cr-00087-LO-1; 1:11-cr-00348-LO-1; 1:12-cv-00132-LO)

Submitted: May 23, 2017

Decided: May 25, 2017

Before KING, AGEE, and WYNN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Alexander Otis Matthews, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Alexander Otis Matthews petitions for a writ of mandamus. He seeks an order from this court directing the district court to act on this court's judgment vacating the district court's order and remanding. Our review of the district court's docket reveals that the district court entered an order on April 19, 2017, directing Matthews to notify the district court within 30 days whether he wishes to delete his successive 28 U.S.C. § 2255 (2012) claims from his Fed. R. Civ. P. 60(b) motion, or whether he wishes to have the entire Rule 60(b) motion treated as a successive § 2255 application. Accordingly, because the district court has recently acted on Matthews' case, we deny the mandamus petition as moot. Matthews also filed a supplemental petition for a writ of mandamus seeking an order directing the Government to respond to the successive 28 U.S.C. § 2255 claims. Mandamus may not be used as a substitute for appeal. *In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007). Thus, the relief sought in the supplemental petition is not available by way of mandamus. We grant leave to proceed in forma pauperis. 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.

PETITION DENIED