

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

---

**No. 17-7207**

---

FREDERICK BANKS,

Petitioner - Appellant,

v.

KELLY FORBES, FMC Butner; U.S. MARSHAL'S SERVICE; MARK HORNAK; D. DREW, Warden, USP Atlanta; J.C. HOLLAND, Warden, FMC Butner; S.A. SEAN LANGFORD; CHRISTOPHER ASHER WRAY; MIKE POMPEO, Central Intelligence Agency; ROBERT CESSAR, Asst. US Attorney; SOO SONG, US Attorney; FEDERAL BUREAU OF PRISONS; THOMAS KANE, Acting Director, Federal BOP,

Respondents - Appellees.

---

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (5:17-hc-02102-BO)

---

Submitted: December 21, 2017

Decided: December 28, 2017

---

Before WILKINSON and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

---

Affirmed by unpublished per curiam opinion.

---

Frederick Hamilton Banks, Appellant Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Federal pretrial detainee Frederick Banks appeals the district court's order dismissing without prejudice his petition seeking a writ of habeas corpus, pursuant to 28 U.S.C. § 2241 (2012), and a writ of mandamus, pursuant to 28 U.S.C. § 1361 (2012). We agree with the district court that, because a Pennsylvania District Court is in the process of determining Banks' competency to stand trial, Banks' request for mandamus and habeas relief is premature. *See Heckler v. Ringer*, 466 U.S. 602, 616 (1984) ("The common-law writ of mandamus, as codified in 28 U.S.C. § 1361, is intended to provide a remedy for a plaintiff only if he has exhausted all other avenues of relief and only if the defendant owes him a clear nondiscretionary duty."); *Timms v. Johns*, 627 F.3d 525, 530 (4th Cir. 2010) ("[W]e hold that Timms should have exhausted his alternative remedies in the Commitment Action before availing himself of habeas review under § 2241."). Thus, we grant Bank's application to proceed in forma pauperis and affirm the district court's judgment. *See Banks v. Forbes*, No. 5:17-hc-02102-BO (E.D.N.C. Aug. 28, 2017). 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*