

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 23-1970**

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In re: MITCHELL SWAIN,

Petitioner.

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On Petition for Writ of Mandamus to the United States District Court for the Eastern District of North Carolina, at Greenville. (4:07-cr-00062-D-1)

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Submitted: September 29, 2023

Decided: October 11, 2023

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Before WYNN and THACKER, Circuit Judges, and MOTZ, Senior Circuit Judge.

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Petition denied by unpublished per curiam opinion.

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Mitchell Swain, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mitchell Swain petitions for a writ of mandamus, alleging that the district court has unduly delayed in adjudicating his motion for sentencing relief under § 404(b) of the First Step Act. This motion was pending before the district court upon remand from this court. *See United States v. Swain*, 49 F.4th 398, 403-04 (4th Cir. 2022). Swain seeks an order from this court directing the district court to act, but our review of the district court's docket reveals that the district court granted Swain's motion on September 29, 2023. Accordingly, because the district court has recently decided Swain's motion, we deny the mandamus petition as moot. 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*