

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7377

In Re: SALVATORE SPINNATO,

Petitioner.

On Petition for Writ of Mandamus. (1:02-cv-04213-JFM)

Submitted: December 20, 2007

Decided: December 28, 2007

Before MICHAEL and KING, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petition denied by unpublished per curiam opinion.

Salvatore Spinnato, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Salvatore Spinnato petitions for a writ of mandamus, alleging the district court has unduly delayed acting on his motion to reopen his habeas petition. He seeks an order from this court directing the district court to act. The district court has recently ruled on the motion to reopen. Spinnato v. Galley, No. 1:02-cv-04213-JFM (D. Md. Nov. 15, 2007). Accordingly, although we grant leave to proceed in forma pauperis, 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 the court and argument would not aid the decisional process.

PETITION DENIED

*To the extent Spinnato seeks to challenge the district court's order, a mandamus petition may not serve as a substitute for an appeal. See In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).