

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-2068

In Re: KEVIN WAYNE MCDANIELS,

Petitioner.

On Petition for Writ of Mandamus. (7:06-cr-00036-HFF-1)

Submitted: February 20, 2009 Decided: March 16, 2009

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

Petition denied by unpublished per curiam opinion.

Kevin Wayne McDaniels, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kevin Wayne McDaniels petitions for a writ of mandamus, alleging the district court has unduly delayed acting on his 28 U.S.C.A. § 2255 (West Supp. 2008) motion. He seeks an order from this court directing the district court to act. McDaniels also moved for appointment of counsel and for refund of his appellate filing fees. Our review of the district court docket sheet reveals that the district court ruled on McDaniels's § 2255 motion on November 12, 2008. Accordingly, we deny the mandamus petition as moot. We deny McDaniels's motions for appointment of counsel and for refund of fees, and 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 the court and argument would not aid the decisional process.

PETITION DENIED