

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-2109

In Re: MICHAEL A. SMITH, SR.,
Petitioner

On Petition for Writ of Habeas Corpus.
(3:96-cr-00058-jpj-1)

Submitted: April 8, 2009 Decided: May 4, 2009

Before WILKINSON, TRAXLER, and SHEDD, Circuit Judges.

Petition dismissed by unpublished per curiam opinion.

Michael A. Smith, Sr., Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael A. Smith, Sr., filed a petition for an original writ of habeas corpus challenging his 1997 conviction for possession with intent to distribute cocaine base. This court ordinarily declines to entertain original habeas petitions filed under 28 U.S.C. § 2241 (2006), and this case provides no reason to depart from the general rule. Moreover, we find that the interests of justice would not be served by transferring the case to the district court.* See 28 U.S.C. § 1631 (2006); Fed. R. App. P. 22(a). Accordingly, we dismiss the petition. 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 DISMISSED

* The district court has previously denied Smith's motion for post-conviction relief filed pursuant to 28 U.S.C. § 2255 (West Supp. 2008), see United States v. Smith, No. 7:99-cv-00135-jct-gc (W.D. Va. Dec. 14, 1999). On appeal, this court denied a certificate of appealability and dismissed. United States v. Smith, No. 00-6128, 2000 WL 429934 (4th Cir. Apr. 21, 2000) (unpublished). Should Smith wish to file a second or successive § 2255 motion in the district court, he must seek authorization from this court to do so, 28 U.S.C. § 2244(b)(3) (2006).