

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-1778**

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In Re: BENNIE AUSTIN MACK, JR.,  
  
Petitioner.

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On Petition for Writ of Mandamus. (1:08-cr-00267-WO-1)

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Submitted: September 29, 2009                      Decided: October 5, 2009

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Before NIEMEYER, MICHAEL, and MOTZ, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Bennie A. Mack, Jr., Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bennie A. Mack, Jr., petitions for a writ of mandamus, seeking an order recusing the district court judge in his criminal trial. Our review of the record reveals that the district court entered its final judgment in Mack's case on September 4, 2009. Mack has filed a notice of appeal. Accordingly, because the district court no longer has jurisdiction over Mack's case, we deny the mandamus petition as moot.\* 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

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\* If Mack believes the district judge issued adverse rulings on some improper basis, he may challenge those rulings in his direct appeal.