

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-1347

IN RE: JAMES SPENCER,

Petitioner.

On Petition for Writ of Mandamus.
(4:02-cv-01859-RBH)

Submitted: April 23, 2014

Decided: April 28, 2014

Before KING, SHEDD, and DUNCAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

James Spencer, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Spencer petitions for a writ of mandamus seeking an order compelling the district court judge to recuse himself from Spencer's closed 42 U.S.C. § 1983 (2012) action. In October 2013, Spencer filed in the district court a motion to disqualify the district court judge. The district court has not yet acted upon that motion. While a district court judge's refusal to disqualify himself can be reviewed in this circuit by way of mandamus, see In re Beard, 811 F.2d 818, 827 (4th Cir. 1987), the district court here has not thus far refused disqualification. We therefore conclude that Spencer is not entitled to mandamus relief.

To the extent that Spencer's mandamus petition may be construed to challenge the district court's delay in ruling on his disqualification motion, we find the present record does not reveal undue delay in the district court. Accordingly, we grant leave to proceed in forma pauperis and deny the mandamus petition without prejudice. We also deny Spencer's motion to strike a letter from this court's docket. 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