

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-1912

In re: FRANKLIN C. SMITH,

Petitioner.

On Petition for Writ of Mandamus

Submitted: November 17, 2016

Decided: November 21, 2016

Before GREGORY, Chief Judge, and MOTZ and TRAXLER, Circuit
Judges.

Petition dismissed by unpublished per curiam opinion.

Franklin C. Smith, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Franklin C. Smith petitions for a writ of mandamus seeking to compel the Social Security Administration (SSA) to reinstate disability benefits. However, Smith presents no evidence that he exhausted administrative procedures prior to filing this petition. See Mathews v. Eldridge, 424 U.S. 319, 328 (1976). Absent exhaustion of administrative procedures, courts maintain jurisdiction over a petition for a writ of mandamus only if the petitioner establishes that "the administrative process normally available is not accessible" because the agency fails or refuses to act. U.S. ex rel. Rahman v. Oncology Assocs., P.C., 198 F.3d 502, 515 (4th Cir. 1999). Smith has not demonstrated that the SSA has refused to consider his case, and we therefore do not have jurisdiction to consider Smith's petition.

Accordingly, although we grant leave to proceed in forma pauperis, we deny Smith's motions to compel and dismiss his mandamus petition. 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 DISMISSED