

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7736

DAVIS MOSES LEUDVICK,

Petitioner - Appellant,

versus

ROY W. CHERRY, Superintendent, Hampton Roads
Regional Jail, Portsmouth, Virginia; WARREN A.
LEWIS, District Director, Immigration and
Naturalization Service; JAMES ZIGLER,
Commissioner, Immigration and Naturalization
Service; JOHN ASHCROFT, Attorney General of
the United States,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. James C. Cacheris, Senior
District Judge. (CA-03-1107-AM)

Submitted: July 21, 2004

Decided: August 24, 2004

Before LUTTIG, WILLIAMS, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Davis Moses Leudvick, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Davis Moses Leudvick appeals the district court's order of October 23, 2003, dismissing his petition for habeas corpus, 28 U.S.C. § 2241 (2000), pursuant to Fed. R. Civ. P. 41(b). After the district court dismissed Leudvick's petition for failure to inform the court of a new address, Leudvick filed a notice of appeal. He subsequently filed a document tending to show that he did not have a new address. The district court construed this document as a motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b)(1) and issued an order indicating its inclination to grant the motion. See Fobian v. Storage Tech. Corp., 164 F.3d 887, 891 (4th Cir. 1999). This Court remanded for the limited purpose of considering the merits of Leudvick's motion pursuant to Fed. R. Civ. P. 60(b). See Fobian, 164 F.3d at 892.

On remand, the district court entered an order vacating the October 23, 2003, order of dismissal, and reopened the action.* Because the order on appeal has been vacated, this appeal is now moot. Mellen v. Bunting, 327 F.3d 355, 363-64 (4th Cir. 2003) ("When a case has become moot after the entry of the district court's judgment, an appellate court no longer has jurisdiction to entertain the appeal."), cert. denied, 124 S. Ct. 1750 (2004). Therefore, we dismiss the appeal as moot. We deny Leudvick's

*The district court, by order of June 1, 2004, again dismissed the action without prejudice, citing Fed. R. Civ. P. 41(b). Leudvick has not noted an appeal from that order.

motion for appointment of counsel, and 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.

DISMISSED