

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7754

In Re: JIMMY O'NEAL BROWN,

Petitioner.

On Petition for Writ of Mandamus. (CA-01-410; CR-98-189)

Submitted: February 27, 2004

Decided: May 26, 2004

Before WIDENER, NIEMEYER, and TRAXLER, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Jimmy O'Neal Brown, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jimmy O'Neal Brown has filed a petition for writ of mandamus seeking an order directing the district court to rule on his motion to retest drug-related evidence. After filing his retest motion, Brown filed a 28 U.S.C. § 2255 (2000) motion, reiterating his retest claims and raising several others. Because Brown can seek the relief he desires in his § 2255 proceeding, which is still pending in district court, mandamus relief is not warranted. See In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988) (holding that mandamus relief is precluded if there are other adequate remedies). We grant Brown's motion to proceed in forma pauperis and deny the petition for writ of mandamus. 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