

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7172

In Re: LEROY DUNHAM, JR., a/k/a Boo Boo,
a/k/a Larry,

Petitioner.

On Petition for Writ of Mandamus.
(CR-95-234-1-BEL)

Submitted: September 23, 2005 Decided: December 20, 2005

Before KING and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petition dismissed by unpublished per curiam opinion.

Leroy Dunham, Jr., Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Leroy Dunham, Jr., petitions for writ of mandamus, alleging the district court has unduly delayed acting on his motion filed under 18 U.S.C. § 3582(c) (2000). He seeks an order from this court directing the district court to act. Although the motion has been pending since January 2001, the last significant action occurred on April 8, 2005, when the district court gave Dunham additional time to object to the court's intention to recharacterize the motion as one filed under 28 U.S.C. § 2255 (2000). We find that mandamus relief is not warranted at this time because the delay since the district court's last significant action is not unreasonable. Accordingly, we dismiss the mandamus petition without prejudice to the filing of another mandamus petition if the district court does not act expeditiously. We grant Dunham's motion 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 DISMISSED