

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 11-6988**

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DAVID H. TOBEY,

Petitioner - Appellant,

v.

UNITED STATES OF AMERICA,

Respondent - Appellee.

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Appeal from the United States District Court for the District of Maryland, at Greenbelt. Deborah K. Chasanow, Chief District Judge. (8:03-cr-00151-DKC-1; 8:10-cv-01358-DKC)

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Submitted: February 28, 2012

Decided: April 2, 2012

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Before MOTZ, DAVIS, and KEENAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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David Henry Tobey, Appellant Pro Se. James Marton Trusty, Assistant United States Attorney, Greenbelt, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Henry Tobey appeals the district court's order denying relief on his 28 U.S.C.A. § 2241 (West 2006 & Supp. 2011) petition. Tobey asks us to overturn the court's order and conclude that he was "released from imprisonment," see 18 U.S.C.A. § 3624(e) (West Supp. 2011), thereby commencing his supervised release term, at the end of his original prison sentence but before his release from Bureau of Prisons custody pending a civil commitment hearing pursuant to 18 U.S.C. § 4248(a) (2006). After filing this appeal, however, Tobey and the Government entered into a settlement agreement whereby Tobey stipulated that his "release from imprisonment" was lawfully stayed pursuant to § 4248.\* We conclude this stipulation eliminated the grounds for Tobey's appeal and removed any justiciable controversy between the parties. Accordingly, we dismiss Tobey's appeal as moot. See Townes v. Jarvis, 577 F.3d 543, 546-47 (4th Cir. 2009). We deny Tobey's motion for appointment of counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the

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\* In the interest of justice, we take judicial notice of the district court proceedings in the Eastern District of North Carolina, including the settlement agreement, as they have direct bearing on the subject matter of this case. United States v. White, 620 F.3d 401, 416 n.14 (4th Cir. 2010); Colonial Penn Ins. Co. v. Coil, 887 F.2d 1236, 1239 (4th Cir. 1989).

materials before the court and argument would not aid the decisional process.

DISMISSED