

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 95-8116**

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In Re: JOHNATHAN LEE X SMITH,

Petitioner.

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**No. 96-502**

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In Re: JOHNATHAN LEE X SMITH,

Petitioner.

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On Petitions for Writs of Mandamus.  
(CA-95-384-3, CA-95-1391-R)

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Submitted: February 7, 1996

Decided: February 29, 1996

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Before MURNAGHAN and WILLIAMS, Circuit Judges, and PHILLIPS, Senior  
Circuit Judge.

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Petitions denied by unpublished per curiam opinion.

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Johnathan Lee X Smith, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Johnathan Lee X Smith petitions this court for writs of mandamus to compel the United States District Court for the Eastern District of Virginia to act on Smith's "Motion for Understanding," to refrain from acting on Smith's 28 U.S.C. § 2254 (1988) petition, and to transfer Smith's § 2254 petition back to the United States District Court for the Western District of Virginia so that it may be decided with his pending 42 U.S.C. § 1983 (1988) action. Because the District Court for the Eastern District of Virginia recently dismissed Smith's § 2254 motion without prejudice so that Smith may exhaust his state remedies and mooted Smith's motion for understanding. Because the Eastern District Court has rendered a decision on the § 2254 petition, Smith's petitions for mandamus relief are moot. Also, mandamus may not be used as a substitute for appeal. In re: United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979). While we grant leave to proceed in forma pauperis, we deny the petitions for writs 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.

PETITIONS DENIED