

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 98-527**

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In Re: JOHNNIE ROWE,

Petitioner.

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On Petition for Writ of Mandamus. (CA-97-868)

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Submitted: April 29, 1998

Decided: May 15, 1998

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Before MURNAGHAN, NIEMEYER, and WILLIAMS, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Johnnie Rowe, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Johnnie Rowe filed a petition for a writ of mandamus to compel the district court to act on his response and the motion to dismiss his action filed under 42 U.S.C. § 1983 (1994). Defendants filed the motion to dismiss on October 9, 1997, to which Rowe responded on October 16, 1997. The motion and response are before a magistrate judge for his report and recommendation to the district court. We find that the delay in the district court has not been unreasonable. Accordingly, we deny the petition for a writ of mandamus without prejudice to Rowe's right to refile if the district court does not act within a reasonable time. 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