

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7880

In Re: GEORGE BOYD STONE,

Petitioner.

On Petition for Writ of Mandamus. (CR-93-3)

Submitted: January 19, 2005

Decided: February 2, 2005

Before WILLIAMS, MICHAEL, and MOTZ, Circuit Judges.

Petition denied by unpublished per curiam opinion.

George Boyd Stone, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

On December 1, 2003, George Boyd Stone filed a petition for writ of mandamus, seeking an order from this court requiring the district court to rule on Stone's September 11, 2002 motion to preserve evidence in his criminal case. The motion was denied on June 12, 2003, rendering Stone's petition moot. Thus, Stone requests that his petition be construed as a notice of appeal from the district court's June 12 order. However, even if we construed the petition as Stone requests, the notice of appeal would be untimely. See Fed. R. App. P. 4(b)(1). Moreover, although Stone contends that he did not receive timely notice of the denial of his motion, we are without jurisdiction to extend the time to appeal. See United States v. Little, 2004 WL 2955027, *7 (4th Cir. Dec. 22, 2004). Accordingly, we grant Stone's motion to proceed in forma pauperis, deny Stone's petition for writ of mandamus, and deny his request to construe the petition as a notice of appeal. 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