

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6014

In Re: PAUL B. GOIST,

Petitioner.

On Petition for Writ of Mandamus. (CA-03-3021)

No. 04-6205

PAUL B. GOIST,

Petitioner - Appellant,

versus

JOSEPH SMITH, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Henry M. Herlong, Jr., District Judge. (CA-03-3021-20-BD)

Submitted: March 17, 2004

Decided: April 20, 2004

Before LUTTIG, MOTZ, and KING, Circuit Judges.

No. 04-6014, petition denied; No. 04-6205, dismissed by unpublished per curiam opinion.

Paul B. Goist, Petitioner, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

In No. 04-6014, Paul B. Goist petitions for a writ of mandamus, alleging the district court has unduly delayed acting on his 28 U.S.C. § 2241 (2000) petition. He seeks an order from this court directing the district court to act. Our review of the docket sheet reveals that the district court has dismissed Goist's § 2241 petition. Accordingly, although we grant leave to proceed in forma pauperis as to the mandamus case, we deny the mandamus petition as moot. We further note that a mandamus petition is not a substitute for an appeal. In re Beard, 811 F.2d 818, 826 (4th Cir. 1987).

In No. 04-6205, Goist appeals from the district court's order accepting the recommendation of the magistrate judge and denying relief on his petition filed under § 2241. We have reviewed the record and find no reversible error. Accordingly, we deny leave to proceed in forma pauperis for this appeal and dismiss on the reasoning of the district court. See Goist v. Smith, No. CA-03-3021-20-BD (D.S.C. Jan. 7, 2004).

Additionally, we deny Goist's motion for appointment of counsel and his motion seeking to enjoin his transfer to another facility pending disposition of these cases. 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.

No. 04-6014, PETITION DENIED
No. 04-6205, DISMISSED