

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6283**

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EZRA CHARLES CALLOWAY, a/k/a Charles Smith,

Petitioner - Appellant,

versus

DISTRICT OF COLUMBIA BOARD OF PAROLE,

Respondent - Appellee.

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Appeal from the United States District Court for the District of Maryland, at Baltimore. Alexander Williams, Jr., District Judge. (CA-03-3570-8-AW)

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Submitted: June 2, 2004

Decided: August 2, 2004

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Before NIEMEYER, LUTTIG, and WILLIAMS, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Ezra Charles Calloway, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Ezra Charles Calloway, Sr., a Maryland state prisoner, seeks to appeal the order of the district court denying his request that the District of Columbia Board of Parole be instructed to hold a parole revocation hearing to determine if he violated his parole in the District of Columbia. We find that Calloway's action is properly construed as a petition for mandamus relief. See Johnson v. Reilly, 349 F.3d 1149, 1153 (9th Cir. 2003); Heath v. United States Parole Commission, 788 F.2d 85, 89 (2d Cir. 1986). The Board of Parole filed a detainer with the Maryland Division of Correction. There is, however, "no constitutional duty to provide [a parolee] an adversary parole hearing until he is taken into custody as a parole violator by execution of [a] warrant." Moody v. Daggett, 429 U.S. 78, 89 (1976); Larson v. McKenzie, 554 F.2d 131, 132-33 (4th Cir. 1977); Gaddy v. Michael, 519 F.2d 669, 677 (4th Cir. 1975). We affirm the district court's order denying Calloway relief, as Calloway has not yet been taken into custody as a parole violator. 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.

AFFIRMED