

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6724**

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KENNY A. CARTER,

Petitioner - Appellant,

versus

JOHN ASHCROFT, Attorney General;  
ELIOT SPITZER,

Respondents - Appellees.

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Appeal from the United States District Court for the Western  
District of Virginia, at Roanoke. Glen E. Conrad, District Judge.  
(CA-04-178-GEC)

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Submitted: October 29, 2004

Decided: November 23, 2004

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Before NIEMEYER, WILLIAMS, and MOTZ, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Kenny A. Carter, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Kenny A. Carter appeals from the district court's orders dismissing without prejudice his petition filed under 28 U.S.C. § 2241 (2000) and denying his motion for reconsideration. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's dismissal of Carter's petition. Because, however, the district court's dismissal was without prejudice, Carter may refile his petition in the place of his incarceration. We deny Carter's motion to seal his records. 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