

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-501

In Re: RICHARD L. MASSEY, JR.,

Petitioner.

On Petition for Writ of Mandamus. (CA-94-1861-L)

Submitted: March 29, 1996

Decided: April 16, 1996

Before ERVIN and WILKINS, Circuit Judges, and CHAPMAN, Senior
Circuit Judge.

Petition denied by unpublished per curiam opinion.

Richard L. Massey, Jr., Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Richard L. Massey brought this petition for writ of mandamus, complaining of delay in the district court. The magistrate judge issued a report and recommendation on Massey's 28 U.S.C. § 2254 (1988) petition on April 5, 1995. Massey filed objections to the report on April 13, April 17, and May 26, 1995 and the case has been awaiting action by the district court.

We deny the petition for writ of mandamus. At the time it was filed, the case had been awaiting action by the district court for nine months, and we conclude that there had not been undue delay. However, our denial is without prejudice to Massey's right to refile if the district court does not act expeditiously. Although we grant leave to proceed in forma pauperis, 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