

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-2312

In re: DIEGO ALEJANDRO NOYOLA, a/k/a Alexander Vargas, a/k/a Alfredo Valanzar-Noyola,

Petitioner.

On Petition for Writ of Mandamus. (1:16-cr-00383-NCT-1)

Submitted: May 5, 2022

Decided: May 23, 2022

Before WYNN and QUATTLEBAUM, Circuit Judges, and KEENAN, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Diego Alejandro Noyola, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Diego Alejandro Noyola petitions for a writ of mandamus alleging that the district court has unduly delayed acting on his first amended 28 U.S.C. § 2255 motion, which he filed on September 30, 2019. *See Houston v. Lack*, 487 U.S. 266, 276 (1988) (establishing prison mailbox rule). We liberally construe this petition as also alleging that the district court has unduly delayed acting on Noyola's original § 2255 motion, which he filed on August 19, 2019, and his second amended § 2255 motion, which he filed on February 27, 2020. *See id.*; *Martin v. Duffy*, 977 F.3d 294, 298 (4th Cir. 2020) (reiterating that courts must construe pro se pleadings liberally). Noyola seeks an order from this court directing the district court to act.

Our review of the district court's docket reveals that, by a judgment entered on April 29, 2022, the district court adopted the magistrate judge's recommendation dated April 1, 2022; construed Noyola's amended § 2255 motions as the operative § 2255 motions; and denied relief on the merits or, alternatively, dismissed the motions as untimely. Because the district court recently decided Noyola's case, we deny the mandamus petition as moot. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DENIED