

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-4496

IN RE: JUAN FRANCISCO LIZARDO,
Petitioner

On Petition for Writ of Mandamus from the
District Court of the Virgin Islands
(Related to D.V.I. Civ. No. 02-cv-0155)

Submitted Pursuant to Rule 21, Fed. R. App. P.
December 21, 2007
Before: SCIRICA, Chief Judge, WEIS and GARTH, Circuit Judges
(Opinion filed February 8, 2008)

OPINION

PER CURIAM.

Juan Francisco Lizardo petitions for a writ of mandamus directing the District Court to rule on his pending motion to vacate under 28 U.S.C. § 2255. For the reasons that follow, we will deny the petition.

Lizardo is incarcerated at the Federal Correctional Institution in Edgefield, South Carolina. In his mandamus petition, Lizardo alleges that he filed a § 2255 motion

in the District Court on August 16, 2002, to which the District Court has not responded.

Lizardo asks us to order the District Court to act on his motion.

By order entered January 25, 2008, the District Court denied Lizardo's motion pursuant to 28 U.S.C. § 2255. Because the District Court has ruled on Lizardo's motion, we will deny his mandamus petition as moot. In light of our disposition, Lizardo's motion for appointment of counsel is also denied.