

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-1460

In Re: LENARD A. FOOTLAND,

Petitioner.

On Petition for Writ of Mandamus. (CA-99-1360-A)

Submitted: May 25, 2000

Decided: June 2, 2000

Before WILLIAMS, MICHAEL, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Lenard A. Footland, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Leonard A. Footland has filed a petition for a writ of mandamus asking this court to recuse the district court judge assigned to hear a motion in his civil discrimination case. The granting of a writ of mandamus is a drastic remedy to be used in extraordinary circumstances. See In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). A petitioner must show that he has a clear right to the relief sought, that the respondent has a clear duty to perform the act requested by petitioner, and that there is no other adequate remedy available. See In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988). We find Footland's conclusory allegation of bias on the part of the district court judge does not state sufficient grounds entitling him to the extraordinary relief. Furthermore, his allegation that the district court applied incorrect precedent in ruling on a motion for summary judgment is a claim properly raised on direct appeal. See In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979) (prohibiting use of mandamus as substitute for appeal).

Accordingly, we deny Footland's petition for writ of mandamus. 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