

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-7639

In Re: GERALD DAVID DAVAGE,

Petitioner.

On Petition for Writ of Mandamus. (CR-94-41-JFM)

Submitted: January 11, 2001

Decided: January 19, 2001

Before NIEMEYER, WILLIAMS, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Gerald David Davage, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Gerald David Davage, a Maryland inmate, filed a petition for a writ of mandamus requesting that this court vacate orders entered by the district court denying his 28 U.S.C.A. § 2255 (West Supp. 2000) motion and dismissing his independent action to set aside the § 2255 judgment on the ground that the district court judge was biased against him. Davage also asks that the district court judge recuse himself from any of Davage's future actions. Because Davage appears dissatisfied merely with the judge's rulings in his cases and has not established any extrajudicial bias, recusal is not warranted. In re Beard, 811 F.2d 818, 827 (4th Cir. 1987) (holding that nature of alleged bias must be personal and not arising out of litigation). Finally, we decline to vacate the judge's prior orders because Davage appealed from those rulings, and we upheld them on appeal. See In re United Steelworkers of Am., 595 F.2d 958, 960 (4th Cir. 1979) (noting that mandamus may not be used as substitute for appeal). Although we grant Davage leave to proceed in forma pauperis, we deny his petition for a 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