

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 01-6195**

---

In Re: CURTIS L. WARD,

Petitioner.

---

On Petition for Writ of Mandamus. (CA-97-109)

---

Submitted: May 17, 2001

Decided: May 25, 2001

---

Before WIDENER, NIEMEYER, and MICHAEL, Circuit Judges.

---

Petition denied by unpublished per curiam opinion.

---

Curtis L. Ward, Petitioner Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Curtis L. Ward petitions this court for a writ of mandamus to compel the district court for the Eastern District of Virginia to hold an evidentiary hearing with respect to his pending 28 U.S.C.A. § 2255 (West Supp. 2000) motion. We find that mandamus relief is not warranted. Mandamus is a drastic remedy, only to be granted in extraordinary circumstances. In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). The party seeking mandamus relief has the heavy burden of showing that he has no other adequate avenues of relief and that his right to the relief sought is clear and indisputable. Mallard v. United States Dist. Court, 490 U.S. 296, 309 (1989). Mandamus is not a substitute for appeal. Id.

In the event he does not receive an evidentiary hearing, Ward may attack the district court's refusal to hold a hearing by appealing the court's final order in his case. Therefore, because there are other adequate means to attain relief, Ward's right to mandamus relief is not clear and indisputable. See United States ex rel. Rahman v. Oncology Assoc. P.C., 198 F.3d 502, 511 (4th Cir. 1999). Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition. 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