

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7125

In Re: RAYMOND CHERISSON, a/k/a Haitian James,

Petitioner.

On Petition for Writ of Mandamus. (CR-94-97)

Submitted: September 20, 2001 Decided: September 28, 2001

Before LUTTIG, KING, and GREGORY, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Raymond Cherisson, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Raymond Cherisson petitions this court for a writ of mandamus to compel the district court to rule on his pending Fed. R. Civ. P. 60(b) motion, which he filed on September 22, 2000. Review of the district court's docket sheet reveals the motion remained pending as of the filing of Cherrison's petition for mandamus. However, mandamus is a drastic remedy, only to be granted in extraordinary circumstances, In re: Beard, 811 F.2d 818, 826 (4th Cir. 1987), and we find there has not yet been undue delay by the district court. Accordingly, although we grant leave to proceed in forma pauperis, we deny Cherisson's petition for writ of mandamus without prejudice to his right to refile if the district court fails to act expeditiously on his Rule 60(b) motion. 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