

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7426

In Re: HENRY BATISTE,

Petitioner.

On Petition for Writ of Mandamus. (CA-99-2544)

Submitted: December 20, 2001

Decided: January 2, 2002

Before LUTTIG, TRAXLER, and GREGORY, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Henry Batiste, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Henry T. Batiste has filed a petition for a writ of mandamus, requesting this court to direct the district court to expedite its review of his 28 U.S.C.A. § 2254 (West 1994 & Supp. 2001) petition. However, there is currently a motion for summary judgment pending in the case that had only been fully briefed for two months when Batiste filed his petition in August 2001. In addition, due to Batiste's appeal of the denial of his motion for bail pending a decision in this case, the district court was without the record from June 8 to November 28, 2001.

Mandamus is a drastic remedy to be used only in extraordinary circumstances. Kerr v. United States Dist. Ct., 426 U.S. 394, 402 (1976). Because there has been no extraordinary delay at this point in the case, we grant Batiste's motion to proceed in forma pauperis and deny his petition for mandamus relief. 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