

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-6340

In Re: CARLOS EUGENE KIPP,

Petitioner.

On Petition for Writ of Mandamus. (CA-99-102)

Submitted: May 7, 2002

Decided: June 3, 2002

Before WIDENER, LUTTIG, and MOTZ, Circuit Judges.

Petition dismissed by unpublished per curiam opinion.

Carlos Eugene Kipp, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Carlos Eugene Kipp has filed a petition for a writ of mandamus seeking to have this court "to [c]ompel the other Court to [r]ule" on his claims alleging that his sentences were improperly calculated consecutively instead of concurrently. It is not clear whether "the other Court" to which Kipp's petition refers is a state court in West Virginia or the U. S. District Court for the Northern District of West Virginia.

Mandamus is a drastic remedy and should only be used in extraordinary situations. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987).

To the extent Kipp asks this court to compel a state court to rule, we lack authority to entertain Kipp's request. Federal courts have no general power to compel action by state officials or non-federal employees. See Davis v. Lansing, 851 F.2d 72, 74 (2nd Cir. 1988); Gurley v. Superior Court of Mecklenburg County, 411 F.2d 586, 587 (4th Cir. 1969).

If Kipp is complaining of delay by a federal district court, the issue is properly reviewable on mandamus. However, any such claim fails on its merits as Kipp has not demonstrated delay in the federal courts. The district court acted on Kipp's federal case recently, dismissing Kipp's claims on April 1, 2002. Therefore, we deny Kipp's petition for a writ of mandamus and grant Kipp leave to

proceed in forma pauperis. 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 DISMISSED