

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6973

In Re: CORNELIUS TUCKER, JR.,

Petitioner.

On Petition for Writ of Mandamus. (CR-02-235)

Submitted: July 24, 2003

Decided: August 25, 2003

Before MOTZ, KING, and GREGORY, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Cornelius Tucker, Jr., Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Cornelius Tucker petitions for a writ of mandamus. He seeks an order disqualifying the magistrate judge and district judge.

Mandamus relief is available only when the petitioner has a clear right to the relief sought. See In re First Fed. Sav. & Loan Assn., 860 F.2d 135, 138 (4th Cir. 1988). Further, mandamus is a drastic remedy and should only be used in extraordinary circumstances. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). Mandamus may not be used as a substitute for appeal. See In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

We have reviewed the petition and conclude that Tucker does not meet the standard for mandamus relief. Accordingly, although we grant Tucker's motion to proceed in forma pauperis, we deny the petition for 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