

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7554

In Re: ERIC MARIO BYERS,

Petitioner.

On Petition for Writ of Mandamus. (CR-02-77)

Submitted: January 30, 2004

Decided: February 17, 2004

Before WIDENER, NIEMEYER, and MOTZ, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Eric Mario Byers, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Eric Mario Byers, who was convicted of various drug trafficking and firearm offenses and sentenced in May 2003, petitions this court for a writ of mandamus, seeking to compel the district court to act on various pretrial motions. Mandamus is a drastic remedy to be used only in extraordinary circumstances. In re Beard, 811 F.2d 818, 826 (4th Cir. 1987) (citing Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976)). It is available only when there are no other means by which the relief sought could be granted. Id. Mandamus may not be used as a substitute for appeal. In re Catawba Indian Tribe, 973 F.2d 1133, 1135 (4th Cir. 1992). The party seeking mandamus relief carries the heavy burden of showing that he has no other adequate means to attain the relief he desires and that his entitlement to such relief is clear and undisputable. Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980).

Byers has appealed his criminal convictions and sentence, and his appeal is currently pending before this court. Therefore, Byers fails to demonstrate he is entitled to mandamus relief. Accordingly, 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