

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-2225

In Re: DANIEL A. VOGEL, JR.,

Petitioner.

On Petition for Writ of Mandamus. (CR-91-440)

Submitted: November 30, 2005 Decided: December 13, 2005

Before NIEMEYER, WILLIAMS, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Daniel A. Vogel, Jr., Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Daniel A. Vogel, Jr., petitions for writ of mandamus seeking relief from a criminal judgment, disqualification of the district judge, and, in the alternative, an order directing the district judge to rule expeditiously on a pending motion. The petition is denied.

Mandamus relief is available only when the petitioner has a clear right to the relief sought. In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988). Further, mandamus is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 811, 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 find there has been no unreasonable delay by the district court. Further, the relief sought by Vogel is unavailable by way of mandamus. Accordingly, we deny the petition for writ of mandamus and 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