

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6356

In Re: RESTONEY ROBINSON,

Petitioner.

On Petition for Writ of Mandamus. (CA-03-523)

Submitted: October 28, 2005

Decided: December 16, 2005

Before LUTTIG and MOTZ, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petition denied by unpublished per curiam opinion.

Restoney Robinson, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Restoney Robinson petitions for writ of mandamus challenging the magistrate judge's deficiency order in a 28 U.S.C. § 2254 (2000) action Robinson filed in 2003. 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 be used only 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). The relief sought by Robinson is not available by way of mandamus. Accordingly, we deny the mandamus petition. 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