

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-6581**

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In Re: TIMOTHY ADAMS,

Petitioner.

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On Petition for Writ of Mandamus.  
(CA-97-1225)

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Submitted: June 9, 2005

Decided: June 17, 2005

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Before NIEMEYER and DUNCAN, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Petition denied by unpublished per curiam opinion.

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Timothy Adams, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Timothy Adams petitions for writ of mandamus. He requests that this court direct the district court to rule on whether an affidavit submitted by his trial counsel in Adams' 28 U.S.C. § 2255 (2000) motion constitutes a fraud upon the court due to an alleged concealed conflict of interest.

Mandamus is a drastic remedy to be used only in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976). Courts are extremely reluctant to grant a writ of mandamus. In re Beard, 811 F.2d 818, 827 (4th Cir. 1987). Mandamus relief is available only when the petitioner has a clear and indisputable right to the relief sought and there are no other adequate means for obtaining the relief. Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980); Beard, 811 F.2d at 826. 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 Adams is not available by way of mandamus. Accordingly, although we grant leave 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