

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7326

In Re: ANTHONY ANDREWS,

Petitioner.

On Petition for Writ of Mandamus.
(CR-01-27-F; CA-02-44-7-F)

Submitted: December 21, 2005 Decided: January 20, 2006

Before LUTTIG, KING, and DUNCAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Anthony Andrews, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Anthony Andrews petitions for writ of mandamus. He seeks an order from this court removing the assigned district court judge from all post-conviction proceedings pursued by Andrews in the district court.

Mandamus is a drastic remedy to be used only in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976). Mandamus relief is available only when there are no other means by which the relief sought could be granted, In re Beard, 811 F.2d 818, 826 (4th Cir. 1987), and may not be used as a substitute for appeal. In re Catawba Indian Tribe, 973 F.2d 1133, 1136 (4th Cir. 1992). The party seeking mandamus relief bears the heavy burden of showing he has no other adequate means to obtain the relief sought and that his entitlement to relief is "clear and indisputable." Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980).

Andrews fails to demonstrate he has no other adequate means to obtain the relief sought or that he is entitled to such relief. Therefore, although we grant leave to proceed in forma pauperis and the motion to supplement, we deny the motions for abeyance as moot, deny the motion to file an oversized mandamus petition as moot, and deny the petition for 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