

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7913

In Re: ALEXANDER VONZELL CLARK,

Petitioner.

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On Petition for Writ of Mandamus.
(4:96-cr-00069-NCT)

Submitted: March 29, 2007

Decided: April 5, 2007

Before MOTZ, TRAXLER, and DUNCAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Alexander Vonzell Clark, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Alexander Clark has filed in this court a "Motion for Personal Restraint Petition for Review of the Order of the United States District Court for the Middle District of North Carolina," which we have construed as a petition for a writ of mandamus seeking an order directing the district court to consider his 28 U.S.C. § 2255 (2000) motion. We conclude that Clark is not entitled to mandamus relief.

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 only be used in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). The relief sought by Clark is not available by way of mandamus. Although we grant Clark's motion to proceed on appeal 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