

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6675

In Re: ROY STEVE DAVIS,

Petitioner.

On Petition for a Writ of Mandamus. (5:06-cv-00111)

Submitted: July 11, 2007

Decided: July 25, 2007

Before MICHAEL and TRAXLER, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petition denied by unpublished per curiam opinion.

Roy Steve Davis, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Roy Steve Davis, a federal inmate, petitions this court for a writ of mandamus, claiming there was undue delay and seeking to compel the district court to act on his 28 U.S.C. § 2241 (2000) petition. Mandamus is a drastic remedy to be used only in extraordinary circumstances. In re Beard, 811 F.2d 818, 826 (4th Cir. 1987) (citing Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976)). It is available only when there are no other means by which the relief sought could be granted. Id. Mandamus may not be used as a substitute for appeal. In re Catawba Indian Tribe, 973 F.2d 1133, 1135 (4th Cir. 1992). The party seeking mandamus relief carries the heavy burden of showing that he has no other adequate means to attain the relief he desires and that his entitlement to such relief is clear and undisputable. Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980).

We find Davis has not shown he is entitled to the relief he seeks. Shortly after Davis filed his mandamus petition, the district court denied his motion for appointment of counsel. Accordingly, while we grant his motion 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