

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 07-6927**

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In Re: KELVIN ANDRE SPOTTS,

Petitioner.

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On Petition for Writ of Mandamus. (3:07-cv-00306)

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Submitted: July 11, 2007

Decided: July 25, 2007

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Before WILKINSON, NIEMEYER, and GREGORY, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Kelvin Andre Spotts, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Federal inmate Kelvin Andre Spotts petitions for a writ of mandamus seeking an order ruling that the district court erred when it failed to apply certain case law in Spotts' 28 U.S.C. § 2255 (2000) action. We conclude that Spotts is not entitled to the relief he seeks, and we dismiss the petition.

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). A drastic remedy to be used only 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), mandamus may not be used as a substitute for appeal. In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

Spotts essentially seeks review of the district court's final order, arguing that the court did not follow precedent in reaching its decision. The mandamus petition thus is in the nature of an appeal and, under United Steelworkers, the relief sought is unavailable to Spotts.

Accordingly, although we grant the motion for leave to proceed in forma pauperis, we deny the petition for a writ of mandamus. We dispense with oral argument because the facts and

legal contentions are adequately presented in the materials before us and argument would not aid the decisional process.

PETITION DENIED