

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7288

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARRELL LAW, a/k/a B,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Clarksburg. Irene M. Keeley, District Judge. (1:06-cr-00020-IMK-DJJ-9; 1:08-cv-00171-IMK-DJJ)

Submitted: November 19, 2009

Decided: December 3, 2009

Before MOTZ, GREGORY, and SHEDD, Circuit Judges.

Dismissed; petition denied by unpublished per curiam opinion.

Darrell Law, Appellant Pro Se. Zelda Elizabeth Wesley, Assistant United States Attorney, Clarksburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darrell Law seeks to appeal the district court's order denying his motion for the recusal of United States District Court Judge Keeley. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2006), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2006); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order Law seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we dismiss the appeal for lack of jurisdiction.

Law requests that his informal appellate brief also be considered as a petition for a writ of mandamus, seeking an order from this court directing Judge Keeley to be recused from his pending post-conviction proceeding. 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. United States v. Maussaoui, 333 F. 3d 509, 516-17 (4th Cir. 2003). Law's allegations regarding Judge Keeley's purported extrajudicial bias fall far short of those necessary to warrant her recusal. Accordingly, we conclude Law is not entitled to mandamus relief.

For the foregoing reasons, we dismiss the appeal for lack of jurisdiction and 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.

DISMISSED; PETITION DENIED