

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-1199**

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In Re: MITCHELL GATEWOOD,  
  
Petitioner.

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On Petition for Writ of Mandamus. (3:08-cv-00182-RJC)

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Submitted: March 30, 2010

Decided: April 6, 2010

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Before WILKINSON, GREGORY, and SHEDD, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Mitchell Gatewood, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mitchell Gatewood petitions for a writ of mandamus seeking an order directing the district court to hold an evidentiary hearing. We conclude that Gatewood 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). Mandamus may not be used as a substitute for appeal. In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

The relief sought by Gatewood is not available by way of mandamus. Accordingly, although we grant leave 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