

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-1357

In re: CLAUDE WENDELL BELLAMY,

Petitioner.

On Petition for a Writ of Mandamus.
(7:99-cr-00049-F-1; 7:03-cv-00024-F)

Submitted: May 19, 2011

Decided: May 23, 2011

Before TRAXLER, Chief Judge, and AGEE and KEENAN, Circuit
Judges.

Petition denied by unpublished per curiam opinion.

Claude Wendell Bellamy, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Claude Wendell Bellamy petitions for a writ of mandamus seeking an order compelling the district court to adjudicate a claim raised in his 2003 28 U.S.C. § 2255 motion to vacate. We conclude that Bellamy is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); United States v. Moussaoui, 333 F.3d 509, 516-17 (4th Cir. 2003). Further, 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).

Mandamus may not be used as a substitute for appeal. In re Lockheed Martin Corp., 503 F.3d 351, 353 (4th Cir. 2007). Indeed, Bellamy has appealed from the district court's ruling on the motion and therefore mandamus is not an available remedy.

Although we grant Bellamy 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