

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-1834

IN RE: DWAYNE DELESTON,

Petitioner.

On Petition for a Writ of Mandamus.
(2:99-cr-00751-DCN-6; 2:02-cv-03895-DCN)

Submitted: October 18, 2011 Decided: October 20, 2011

Before WILKINSON, MOTZ, and DIAZ, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Dwayne Curtis Deleston, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dwayne Curtis Deleston petitions for a writ of mandamus seeking an order directing the district court to dismiss the indictments in his underlying criminal proceeding. We conclude that Deleston 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).

The relief sought by Deleston 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