

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-7610

In Re: JOHN WESLEY MILLS,

Petitioner.

On Petition for Writ of Mandamus. (CR-96-986)

Submitted: February 10, 2000 Decided: February 17, 2000

Before WIDENER and NIEMEYER, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petition denied by unpublished per curiam opinion.

John Wesley Mills, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

John Wesley Mills has filed a petition for a writ of mandamus asking this court to compel the district court to expedite its consideration of the Government's motion for reduction of sentence pursuant to Fed. R. Crim. P. 35(b). The granting of a writ of mandamus is a drastic remedy to be used in extraordinary circumstances. See In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). A petitioner must show that he has a clear right to the relief sought, that the respondent has a clear duty to perform the act requested by petitioner, and that there is no other adequate remedy available. See In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988). Mills has failed to make the requisite showing for such extraordinary relief. Our review of the district court docket sheet discloses that there has been no undue delay in considering the Government's motion. Although we grant Mills' motion to proceed in forma pauperis, we deny his 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