

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6322

In Re: PATRICE BEHANZIN WILSON,

Petitioner.

On Petition for Writ of Mandamus. (96-cr-36-1)

Submitted: August 20, 2007

Decided: September 6, 2007

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

Petition denied by unpublished per curiam opinion.

Patrice Behanzin Wilson, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Patrice Behanzin Wilson petitions this court for a writ of mandamus. Wilson seeks an extension of the time period within which to file a petition for rehearing, an order directing the district court to conduct an evidentiary hearing, and an order directing the district court to particularize its basis for denying Wilson's Fed. R. Civ. P 60(b) motion for reconsideration. Because we conclude that Wilson is not entitled to mandamus relief, we deny the petition.

Mandamus relief is available only when the petitioner has a clear right to the relief sought and there are no other means to seek the requested relief. 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).

We previously denied Wilson's request for an extension of the period within which to file a petition for rehearing, and decline to reconsider that decision here. Further, we denied a certificate of appealability and dismissed Wilson's appeal as to the district court's denial of Wilson's Fed. R. Civ. P. 60(b) motion, see United States v. Wilson, 178 F. App'x 274 (4th Cir.

2006) (unpublished), and we will not reconsider the propriety of the district court's decision not to conduct an evidentiary hearing or the sufficiency of the district court's order in this proceeding. Because Wilson fails to establish the requisite extraordinary circumstances, he has not established he is entitled to the relief he seeks.

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