

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-2236

In Re: WENDY B. DAUBERMAN,

Petitioner.

On Petition for Writ of Mandamus. (3:07-cr-00040-HEH-2)

Submitted: April 6, 2011

Decided: April 14, 2011

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

Petition denied by unpublished per curiam opinion.

Wendy B. Dauberman, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Wendy B. Dauberman has petitioned this court for a writ of mandamus. In her petition, Dauberman asserts that the Government has refused to respond to her 28 U.S.C.A. § 2255 (West Supp. 2010) motion and asks that this court order the district court to rule on her "unopposed" § 2255 motion. The writ of mandamus is a drastic remedy and should be granted only in those extraordinary situations when no other remedy is available. In re: Beard, 811 F.2d 818, 826 (4th Cir. 1987). Our review of the district court's docket reveals that the Government filed its response to Dauberman's § 2255 motion on August 20, 2010, and thus Dauberman's motion has been ripe for the district court's consideration for less than eight months. Accordingly, we conclude that there has been no undue delay in processing Dauberman's motion and therefore deny the petition for mandamus relief without prejudice to Dauberman's right to refile if the district court does not act expeditiously. 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