

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-1387

In Re: DAVID L. WHITEHEAD,

Petitioner.

On Petition for Writ of Mandamus.
(CA-93-1291-A, CA-93-1547-A)

Submitted: April 29, 1999

Decided: May 4, 1999

Before WILLIAMS, TRAXLER, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

David L. Whitehead, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

David L. Whitehead has filed a petition for a writ of mandamus seeking an order directing a stay of the district court's decision in order to grant him a hearing before the district court judge. He also alleges that the court should have transferred the case because a magistrate judge in the district court was biased. Mandamus is a drastic remedy to be used only in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976). Mandamus relief is only available when there are no other means by which the relief sought could be granted, In re Beard, 811 F.2d 818, 826 (4th Cir. 1987), and may not be used as a substitute for appeal. In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979). The party seeking mandamus relief carries the heavy burden of showing that he has "no other adequate means to attain the relief he desires" and that his right to such relief is "clear and indisputable." Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980). Whitehead has not made such a showing. Accordingly, although we grant leave to proceed in forma pauperis, we deny mandamus relief. 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