

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 99-2581**

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In Re: FORREST EJAY SURRETT,

Petitioner.

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On Petition for Writ of Mandamus. (CA-98-22-1)

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Submitted: March 10, 2000

Decided: March 21, 2000

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

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Petition denied by unpublished per curiam opinion.

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Forrest Ejay Surrett, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Forrest Ejay Surrett has filed a petition for a writ of mandamus in this court to compel the district court to expedite its consideration of his 42 U.S.C.A. § 1983 (West Supp. 1999) action. 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 the petitioner, and that there is no adequate remedy available. See In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988).

Surrett has failed to make the requisite showing for such extraordinary relief. Our review of the district court docket sheet discloses that there has been significant action in the case in the past six months, and therefore there has been no undue delay in the consideration of Surrett's § 1983 action. We therefore deny his petition for a 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