UNPUBLISHED

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 09-1404

In Re: GARY BUTERRA WILLIAMS,

Petitioner.

On Petition for Writ of Mandamus. (4:08-cr-00087-RGD-FBS-1)

Submitted: July 7, 2009 Decided: July 21, 2009

Before TRAXLER, Chief Judge, and WILKINSON and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Gary Buterra Williams, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gary Buterra Williams petitions for a writ of mandamus seeking an order compelling the district court to dismiss the indictment against him for violation of his rights to a speedy trial. We conclude that Williams is not entitled to mandamus relief.

Mandamus relief is available only when the petitioner has a clear right to the relief sought. <u>In re First Fed. Sav. & Loan Ass'n</u>, 860 F.2d 135, 138 (4th Cir. 1988). Further, mandamus is a drastic remedy and should be used only in extraordinary circumstances. <u>Kerr v. United States Dist. Court</u>, 426 U.S. 394, 402 (1976); <u>In re Beard</u>, 811 F.2d 818, 826 (4th Cir. 1987).

Here, Williams has failed to file a motion to dismiss the indictment in the district court on speedy trial grounds. 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