

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-2250

In re: DEBORAH BORDEAUX,

Petitioner.

On Petition for a Writ of Mandamus. (4:09-cv-70013-TLW)

Submitted: June 21, 2010

Decided: July 9, 2010

Before NIEMEYER, MOTZ, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Deborah Bordeaux, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Deborah Bordeaux petitions for a writ of mandamus, alleging the district court has unduly delayed acting on her 28 U.S.C.A. § 2255 (West Supp. 2010) motion. She seeks an order from this court directing the district court to issue a decision on the motion within twenty days of the date of this order. She also seeks an order directing that the judge should recuse himself and that the district court should inform the Internal Revenue Service ("IRS") that the forfeiture amount was not income.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. [Kerr v. United States Dist. Court](#), 426 U.S. 394, 402 (1976); [United States v. Moussaoui](#), 333 F.3d 509, 516-17 (4th Cir. 2003). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought. [In re First Fed. Sav. & Loan Ass'n](#), 860 F.2d 135, 138 (4th Cir. 1988). Mandamus may not be used as a substitute for appeal. [In re Lockheed Martin Corp.](#), 503 F.3d 351, 353 (4th Cir. 2007).

We find there has been no undue delay in the district court with regard to reaching a decision on the § 2255 motion. We further find Bordeaux's request that this court order the district court to assign a new judge is moot. After Bordeaux filed the petition for a writ of mandamus, the case was

reassigned. We also find Bordeaux fails to show she has a clear right to an order from this court directing the district court to inform the IRS that the forfeiture amount was not income.

Accordingly, although we grant leave to proceed in forma pauperis, we deny the mandamus petition. 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