

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-1746**

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In Re: GARY BUTERRA WILLIAMS,

Petitioner.

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

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Submitted: July 27, 2010

Decided: August 4, 2010

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Before WILKINSON, KING, and DUNCAN, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Gary Buterra Williams, Petitioner Pro Se. Eric Matthew Hurt,  
Assistant United States Attorney, Newport News, Virginia, for  
Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

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

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). Williams filed a motion to dismiss the indictment in the district court based on violations of his rights to a speedy trial that the district court denied, and Williams has not appealed that order.

Therefore, the relief sought by Williams is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for writ of mandamus. We also deny Williams' emergency motion to stay the district court proceedings. 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