UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1655

In re: ARTHUR SEAN WARNER,

Petitioner.

On Petition for Writ of Mandamus. (1:14-cr-00081-IMK-JES-1; 1:15-cv-00164-IMK-JES)

Submitted: July 27, 2017 Decided: July 31, 2017

Before AGEE and FLOYD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Arthur Sean Warner, Petitioner Pro Se.

PER CURIAM:

Arthur Sean Warner petitions for a writ of mandamus, alleging that the district court has unduly delayed acting on his 28 U.S.C. § 2255 (2012) motion and supplemental motions. He seeks an order from this court directing the district court to act. Our review of the district court's docket reveals that, on June 1, 2017, the district court dismissed Warner's § 2255 motion and acted on his supplemental motions. Because the district court has recently decided Warner's case, we deny this portion of his mandamus petition as moot.

Warner also seeks an order compelling the district court to show cause why he is not entitled to the relief he seeks in his motions. We conclude that Warner is not entitled to mandamus relief on this ground. Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. *Kerr v. U.S. 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), and may not be used as a substitute for appeal, *In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007). Accordingly, although we grant leave to proceed in forma pauperis, we deny this portion of Warner's mandamus petition.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DENIED