

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-1579

In re: ROSARIO A. FIORANI, JR.,

Petitioner.

On Petition for Writ of Mandamus.
(1:04-cv-03036-BEL)

Submitted: July 25, 2006

Decided: July 31, 2006

Before WILLIAMS, MOTZ, and TRAXLER, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Rosario A. Fiorani, Jr., Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Rosario A. Fiorani, Jr., has filed a petition for writ of mandamus seeking this court to compel the district court judge to recuse himself from proceedings in Fiorani's civil case. 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). Further, mandamus is a drastic remedy and should only be used in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). Mandamus may not be used as a substitute for appeal. See In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

Fiorani has not made such a showing. Accordingly, while we grant Fiorani's motion for 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