

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7067

In Re: JOHNNIE LEE JUSTICE,

Petitioner.

On Petition for Writ of Mandamus.
(1:06-cv-00067-LMB-lo)

Submitted: August 31, 2006

Decided: September 8, 2006

Before MICHAEL, MOTZ, and GREGORY, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Johnnie Lee Justice, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Johnnie Lee Justice petitions for a writ of mandamus seeking an order requiring the district court to grant his motion for a certificate of appealability. We conclude that Justice is not entitled to mandamus relief.

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. In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

The relief sought by Justice 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 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