

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7316

In Re: DAVID WILLIAM LINDER,

Petitioner.

On Petition for Writ of Mandamus
(2:04-cr-00191-JBF)

Submitted: October 31, 2006

Decided: November 8, 2006

Before WILLIAMS, MICHAEL, and GREGORY, Circuit Judges.

Petition denied by unpublished per curiam opinion.

David William Linder, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

David William Linder petitions for a writ of mandamus seeking an order directing the district court to provide Linder with trial exhibits. Linder further requests that we overturn his conviction. We deny the petition.

Mandamus relief is available only when the petitioner has a clear right to the relief sought and no other means to seek the requested relief. 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). Linder has not established he is entitled to the relief sought, as he fails to establish the requisite extraordinary circumstances. Further, mandamus may not be used as a substitute for appeal. In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979). This court recently affirmed Linder's conviction and sentence, see United States v. Linder, No. 05-4557, 2006 WL 2659067 (4th Cir. Sept. 15, 2006) (unpublished), and he may raise any additional challenges in a motion pursuant to 28 U.S.C. § 2255 (2000). We will not consider the propriety of Linder's conviction in this proceeding.

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