

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6051

In Re: CORNELL COREY WHITE,

Petitioner.

On Petition for a Writ of Mandamus.
(3:05-cv-00503)

Submitted: February 22, 2007

Decided: March 5, 2007

Before WILLIAMS, MOTZ, and SHEDD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Cornell Corey White, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Cornell Cory White petitions for a writ of mandamus seeking an order vacating his federal conviction for escape or, in the alternative, ordering the district court to expeditiously resolve his 28 U.S.C. § 2255 (2000) motion attacking that conviction. We conclude that White 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. U.S. 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). To the extent White seeks an order from this court vacating his conviction, that relief is not available by way of mandamus.

Our review of the docket sheet reveals that the district court denied White's § 2255 motion by order of February 15, 2007. We find that, to the extent White's mandamus petition complains of undue delay in the district court, the petition is moot. Accordingly, although we grant White'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