

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-1043

In Re: THOMAS L. JACKSON,
Petitioner.

On Petition for Writ of Mandamus.

Submitted: March 28, 2008

Decided: April 23, 2008

Before NIEMEYER, KING, and DUNCAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Thomas L. Jackson, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas L. Jackson petitions for a writ of mandamus seeking an order "directing the Court for the Eastern District of Virginia Norfolk Division, to act accordingly in response to plaintiff full compliance with the District Court Order entered on March 1, 2007." We conclude that Jackson 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 be used only 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). In order to obtain mandamus relief, a petitioner must show "he has a clear and indisputable right to the relief sought." In re Braxton, 258 F.3d 250, 261 (4th Cir. 2001) (quotation omitted). Jackson does not explain how the district court failed to comply with its own order, nor is any such failure apparent from the materials before the court.

Moreover, even if it appeared that the district court's order dismissing his complaint without prejudice was erroneous, Jackson has not shown he has a clear and indisputable right to mandamus relief. Because mandamus is not a substitute for appeal, Jackson should have sought review of the district court's dismissal

order by filing a timely notice of appeal rather than a belated request for mandamus relief. Accordingly, 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