

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-1075

In Re: RONALD ERIC MARSHALL,

Petitioner.

On Petition for Writ of Mandamus.
(1:00-cr-00033-BEL-3; 1:04-cv-00465-BEL)

Submitted: April 30, 2008

Decided: June 25, 2008

Before MOTZ, TRAXLER, and DUNCAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Ronald Eric Marshall, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ronald Eric Marshall petitions for a writ of mandamus, alleging that the district court has unduly delayed acting on his motion to amend or alter its November 6, 2006 order denying relief on his motion under 28 U.S.C. § 2255 (2000). Marshall seeks an order from this court directing the district court to act.

The writ of mandamus is a drastic remedy and should be granted only in those extraordinary situations when no other remedy is available. In re: Beard, 811 F.2d 818, 826 (4th Cir. 1987). Marshall filed his Fed. R. Civ. P. 60(b) motion on October 17, 2007. According to the district court's docket sheet, there has been no action on the motion since the date of filing. Because the matter has been pending before the district court for just over six months, we find that there has been no undue delay in processing Marshall's motion. We therefore deny the petition for mandamus relief without prejudice to Marshall's right to refile if the district court does not act expeditiously. In light of this disposition, we deny Marshall's motion to expedite. We grant Marshall's motion to proceed in forma pauperis in this court. 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