

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-1227

In Re: DANIEL WATLINGTON,
Petitioner.

On Petition for Writ of Mandamus. (5:05-cr-00004-F-1)

Submitted: April 15, 2009 Decided: April 28, 2009

Before NIEMEYER, MICHAEL, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Daniel Watlington, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniel Watlington petitions for a writ of mandamus in which he seeks an order remanding the assets in the Pallie Trust to the stated trust beneficiary. We conclude that Watlington 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 reserved for 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). "[M]andamus 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 Watlington is not available by way of mandamus. The proper avenue for Watlington to contest the district court's decision allowing the government to use the trust funds for restitution is a direct appeal, a route Watlington has already pursued without success. Accordingly, we deny leave to proceed in forma pauperis and 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