UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-1742

In Re: HENRY EARL MILLER,

Petitioner.

On Petition for Writ of Mandamus.
(6:04-cr-00022-HFF-3)

Submitted: August 20, 2009 Decided: August 26, 2009

Before WILKINSON and MICHAEL, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Henry Earl Miller, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Henry Earl Miller has filed a petition for writ of mandamus seeking a vacation or reversal of sentence, contending the district court violated Bailey v. United States, 516 U.S. 137 (1995), in convicting him of two firearm counts. Mandamus is a drastic remedy to be used only in extraordinary circumstances, when "the petitioner has no other adequate means to obtain relief to which there is a clear and indisputable right." In re Blackwater Sec. Consulting, L.L.C., 460 F.3d 576, 592 (4th Cir. 2006) (internal quotations and citation omitted), cert. denied, 127 S. Ct. 1381 (2007). "Courts are extremely reluctant to grant a writ of mandamus." In re Beard, 811 F.2d 818, 827 (4th Cir. 1987).

For the reasons stated by this court in the denial of Miller's prior actions raising the same issue raised in the present mandamus petition, he is not eligible for mandamus relief. See In re Miller, 319 F.Appx. 288 (4th Cir. Mar. 27, 2009) (No. 08-7272) motion; In re Miller, (No. 08-207)(4th Cir. July 11, 2008); In re Miller, 279 F. App'x 199 (4th Cir. June 03, 2008) (No.08-1433); In re Miller, 256 F. App'x 604 (Nov. 30, 2007) (No. 07-7120). Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for writ of mandamus. We deny Miller's motions for writ of mandamus to be adjudicated, release pending writ of mandamus proceedings, and

to recuse. 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