

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-2015

In Re: KIRBY LOREN AMLEE,

Petitioner.

On Petition for Writ of Mandamus. (1:09-cv-00550-NCT-DPD;
1:06-cr-00376-NCT-1; 1:06-cr-00424-NCT-1)

Submitted: December 17, 2009 Decided: December 23, 2009

Before WILKINSON, NIEMEYER, and AGEE, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Kirby Loren Amlee, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kirby Loren Amlee has filed a petition for writ of mandamus seeking an order from this court disqualifying the district court judge. We conclude that Amlee 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. United States 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).

The relief sought by Amlee is not available by way of mandamus. Accordingly, although we grant 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