

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-1657

In Re: HARVEY P. SHORT,

Petitioner.

On Petition for Writ of Mandamus. (2:09-cv-00119)

Submitted: October 29, 2010 Decided: November 8, 2010

Before KING and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petition denied by unpublished per curiam opinion.

Harvey P. Short, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Harvey P. Short petitions for a writ of mandamus seeking an order to compel the Commissioner of the Social Security Administration and an Assistant United States Attorney in West Virginia to make back payments of Social Security benefits to which Short claims he is entitled. We conclude that Short is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); United States v. Moussaoui, 333 F.3d 509, 516-17 (4th Cir. 2003). Further, mandamus relief may be obtained only when the petitioner has a clear right to the relief sought and there is no other available remedy. In re Braxton, 258 F.3d 250, 261 (4th Cir. 2001); In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988).

Because Short had another available remedy, and has availed himself of that remedy by filing an action currently pending in federal district court, relief 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