

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-1247

In re: STEVEN-GLENN:JOHNSON,

Petitioner.

On Petition for Writ of Mandamus. (4:10-cv-00151-BR)

Submitted: May 19, 2011

Decided: May 23, 2011

Before TRAXLER, Chief Judge, and AGEE and KEENAN, Circuit
Judges.

Petition denied by unpublished per curiam opinion.

Steven-Glenn:Johnson, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Steven-Glenn:Johnson ("Johnson") has filed a petition for a writ of mandamus in which he requests that this court order the district court to calendar a hearing on his request for a preliminary injunction and rule on that request. He further seeks an order directing the district court to order the United States Marshal's Service to serve Defendants in Johnson's civil action with both a copy of the complaint he filed in the district court and a notice of the hearing on his request for a preliminary injunction.

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). Johnson carries the heavy burden of establishing that he has no other adequate means to attain the relief sought and that his entitlement to such relief is clear and indisputable. In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988). Mandamus may not be used as a substitute for appeal. In re Lockheed Martin Corp., 503 F.3d 351, 353 (4th Cir. 2007).

We deny Johnson's mandamus petition insofar as it relates to his request that the district court calendar a hearing on his request for a preliminary injunction and order the Marshal's Service to serve Defendants in Johnson's action

with a copy of his complaint and a notice of the hearing. This relief is not available by way of mandamus.

We deny Johnson's mandamus petition as moot insofar as it relates to his request that the district court rule on his request for a preliminary injunction. The district court has denied Johnson's motion seeking a preliminary injunction. Glenn:Johnson v. Thomas, No. 4:10-cv-00151-BR (E.D.N.C. April 8, 2011).

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