

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-1396

In re: MARTINEOUS LEON HOPPER,

Petitioner.

On Petition for a Writ of Mandamus.
(1:05-cr-00031-MR-2; 1:08-cv-00442-LHT)

Submitted: July 26, 2012

Decided: August 1, 2012

Before MOTZ, DAVIS, and FLOYD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Martineous Leon Hopper, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Martineous Leon Hopper petitions for a writ of mandamus seeking an order directing the district court to file his second 28 U.S.C.A. § 2255 (West Supp. 2012) motion. We conclude that Hopper 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 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).

It appears from the district court docket sheet in an entry dated June 1, 2012, that a § 2255 motion is pending. The June 1 document is the same memorandum of law filed as an addendum to the present mandamus petition. Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for writ of mandamus as moot. 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