

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-1357

In re: JOHNNY LEE GORE, a/k/a Manager,

Petitioner.

On Petition for Writ of Mandamus.
(4:01-cr-00627-CWH-9; 4:11-cv-70069-CWH)

Submitted: April 18, 2013

Decided: April 23, 2013

Before WILKINSON, GREGORY, and DAVIS, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Johnny Lee Gore, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Johnny Lee Gore petitions for a writ of mandamus seeking an order directing the district court to rule on a motion filed March 26, 2002, during the course of Gore's criminal proceedings. Gore was eventually convicted and a judgment was entered November 20, 2002. We conclude that Gore 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).

The relief sought by Gore is not available by way of mandamus, as his criminal case is closed. 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 this court and argument would not aid the decisional process.

PETITION DENIED