

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-1466

In re: MADISON DUANE MCRAE,

Petitioner.

On Petition for Writ of Mandamus.
(3:04-cr-00223-RJC-DCK-2; 3:08-cv-00219-RJC)

Submitted: July 18, 2013

Decided: July 22, 2013

Before WILKINSON, MOTZ, and SHEDD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Madison Duane McRae, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Madison Duane McRae petitions for a writ of mandamus complaining that the courts committed various errors during his 28 U.S.C.A. § 2255 (West Supp. 2013) proceedings, resulting in due process and Sixth Amendment violations. He also seeks to recuse the district court judge and to expedite a ruling on this petition. We conclude that McRae 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). Mandamus may not be used as a substitute for appeal. In re Lockheed Martin Corp., 503 F.3d 351, 353 (4th Cir. 2007). Additionally, 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 McRae is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, we deny his motions for recusal and to expedite and 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