

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-1739

In Re: RODERICK LAMART FORD,

Petitioner.

On Petition for Writ of Mandamus.
(4:08-cr-00870-RBH-4)

Submitted: July 23, 2013

Decided: August 1, 2013

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

Petition denied by unpublished per curiam opinion.

Roderick Lamart Ford, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Roderick Lamart Ford petitions for a writ of mandamus seeking an order directing the United States Attorney's Office to file a Fed. R. Crim. P. 35 motion for a sentence reduction. In the alternative, Ford seeks leave to file a 28 U.S.C.A. § 2255 (West Supp. 2013) motion. We conclude that Ford 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).

Ford has not shown that he has a clear right to an order directing the United States Attorney's Office to file a Rule 35 motion. Ford is also not eligible for an order from this court authorizing leave to file a § 2255 motion. While this court may grant authorization under 28 U.S.C. § 2244 (2006) to file a second or successive § 2255 motion, our review of Ford's criminal docket sheet does not show that he filed his

first § 2255 motion. Thus, Ford does not need authorization from this court.*

The relief sought by Ford 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 this court and argument would not aid the decisional process.

PETITION DENIED

* While we decide that Ford does not need authorization from this court to file a second or successive § 2255 motion, we take no stand on the merits of any prospective § 2255 motion he may file.