

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-1749

In re: LENNELL DYCHES,

Petitioner.

On Petition for Writ of Mandamus.
(8:06-cr-00136-JFA-1)

Submitted: September 24, 2013 Decided: September 26, 2013

Before NIEMEYER and THACKER, Circuit Judges, and HAMILTON,
Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Lennell Dyches, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lennell Dyches petitions for a writ of mandamus, asking that this court order an evidentiary hearing and vacate his criminal judgment because he asserts that the district court judge who presided over his criminal matter was biased against him and had a pecuniary interest in his case. Dyches has also moved to proceed in forma pauperis. We conclude that Dyches 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). Mandamus may not be used as a substitute for appeal. In re Lockheed Martin Corp., 503 F.3d 351, 353 (4th Cir. 2007). Dyches has not established that he is entitled to mandamus relief.

Accordingly, although we grant Dyches' application to proceed in forma pauperis, we deny the mandamus petition. 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