

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-2114

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

Petitioner.

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

Submitted: October 22, 2013

Decided: October 24, 2013

Before WILKINSON, NIEMEYER, and THACKER, 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Petition denied by unpublished per curiam opinion.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Unpublished opinions are not binding precedent in this circuit.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, alleging that the district court has unduly delayed in ruling on his 28 U.S.C.A. § 2255 (West Supp. 2013) motion. He seeks an order from this court directing the district court to act, or an order vacating his sentence. 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).

We find the present record does not reveal undue delay in the district court. Furthermore, Gore has not shown that he has a clear right to have his sentence vacated. Accordingly, we grant leave to proceed in forma pauperis and 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