

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7340

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERIC MARIO BYERS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca Beach Smith, Chief District Judge. (2:02-cr-00077-RBS-1)

Submitted: November 19, 2013

Decided: November 22, 2013

Before WYNN and FLOYD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Eric Mario Byers, Appellant Pro Se. Joseph Evan DePadilla, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eric Mario Byers appeals the district court's order denying his motion for transcripts at Government expense. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. United States v. Byers, No. 2:02-cr-00077-RBS-1 (E.D. Va. Aug. 9, 2013).

Byers also petitions for a writ of mandamus seeking an order directing the district court to respond to his pretrial motions filed back in 2003. We conclude that Byers 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). Because this issue was addressed on direct appeal, see United States v. Byers, No. 03-4426, 2004 WL 1209015 (4th Cir. June 3, 2004) (unpublished), Byers does not have a clear right to the relief sought.

Accordingly, we affirm the district court's order, deny Byers' petition for a writ of mandamus and deny his motion for transcripts at Government expense. 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.

AFFIRMED