

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-1315

In Re: ROBERT E. BENNETT,

Petitioner.

On Petition for Writ of Mandamus.
(2:14-cv-10133)

Submitted: June 13, 2014

Decided: August 13, 2014

Before WILKINSON, SHEDD, and DIAZ, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Robert E. Bennett, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert E. Bennett petitions for a writ of mandamus seeking an order directing the district court to order his immediate release. We conclude that Bennett 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). This court does not have jurisdiction to grant mandamus relief against state officials, Gurley v. Superior Court of Mecklenburg Cnty., 411 F.2d 586, 587 (4th Cir. 1969), and does not have jurisdiction to review final state court orders, Dist. of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482 (1983).

The relief sought by Bennett is not available by way of mandamus.* Accordingly, although we grant leave to proceed in

* To the extent Bennett's filing could be construed as an appeal of the proposed findings and recommendation entered by the magistrate judge in his pending case in the district court, (Continued)

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

we lack jurisdiction to consider the appeal because the district court has not issued a final order. 28 U.S.C. §§ 1291, 1292 (2012).