

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-1275

In re: KHALEEL ALI HILLIARD

Petitioner.

On Petition for Writ of Mandamus.
(Nos. 1:06-cr-00156-NCT-1; 1:08-cv-00870-NCT-DPD)

Submitted: July 23, 2015

Decided: July 27, 2015

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

Petition denied by unpublished per curiam opinion.

Khaleel Ali Hilliard, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Khaleel Ali Hilliard petitions for a writ of mandamus seeking an order directing the U.S. Attorney's Office for the Middle District of North Carolina to respond to his motion to amend his 28 U.S.C. § 2255 (2012) motion. We conclude that Hilliard is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. U.S. 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).

The relief sought by Hilliard is not available by way of mandamus because the Government was not ordered by the district court to respond to Hilliard's motion to amend his § 2255 motion.* Accordingly, we deny the petition for writ of mandamus. We dispense with oral argument because the facts and legal

* We note that the § 2255 motion, the Government's motion to dismiss, and Hilliard's motion to amend were referred to the magistrate judge on January 31, 2014, and no action has been taken. However, Hilliard's petition sought relief only from the U.S. Attorney's Office.

contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DENIED