

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-1517

In re: FRANKIE JAE LORDMASTER, a/k/a Jason Robert Goldader,

Petitioner.

On Petition for Writ of Mandamus.
(1:13-cv-01305-JCC-IDD; 1:14-cv-00507-JCC-MSN)

Submitted: November 19, 2015 Decided: November 23, 2015

Before NIEMEYER, KING, and HARRIS, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Frankie Jae LordMaster, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Frankie Jae LordMaster petitions for a writ of mandamus seeking an order directing the district court to file certain documents and to grant him the relief he requested in a 28 U.S.C. § 2254 (2012) petition and a 42 U.S.C. § 1983 (2012) complaint. We conclude that LordMaster is not entitled to mandamus relief on these grounds.

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). It 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), and may not be used as a substitute for appeal, In re Lockheed Martin Corp., 503 F.3d 351, 353 (4th Cir. 2007).

LordMaster also alleges that the district court has unduly delayed in ruling on a Fed. R. Civ. P. 60(b) motion filed in his habeas action and in progressing on his § 1983 complaint. He seeks an order from this court directing the district court to act. We find the present record does not reveal undue delay in the district court in LordMaster's habeas action. Further, our review of the district court's docket reveals that the court dismissed LordMaster's § 1983 with prejudice in May 2015,

rendering moot the portion of the mandamus petition seeking timely review of this complaint.

Accordingly, we deny LordMaster's motions to stay judgment and for class action status and deny his 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