

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-2013

In re: KARL MCDONALD, a/k/a Lil Boo,

Petitioner.

On Petition for Writ of Mandamus. (1:13-cr-00307-WDQ-9)

Submitted: January 14, 2016

Decided: January 19, 2016

Before AGEE, WYNN, and FLOYD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Karl McDonald, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Karl McDonald petitions for a writ of mandamus directing the district court to dismiss his conviction due to the Government's failure to submit a timely response to his 28 U.S.C. § 2255 (2012) motion. We conclude that McDonald is not entitled to the relief he seeks.

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: (1) the petitioner has a "clear and indisputable" right to the relief sought and (2) there are no other means by which the relief sought could be granted. Moussaoui, 333 F.3d at 517. Mandamus may not be used as a substitute for appeal. In re Lockheed Martin Corp., 503 F.3d 351, 353 (4th Cir. 2007).

McDonald has failed to show that he has a right to the relief sought. Accordingly, although we grant leave to proceed in 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