

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1802

In re: JAMES K. BURKS, JR., a/k/a Howard Theodore Wright, a/k/a Nathan King, a/k/a Derrick Baxter, a/k/a Marcus Allen, a/k/a Martin Wilson, a/k/a Marcus Williams,

Petitioner.

On Petition for Writ of Mandamus. (1:93-cr-00460-CMH-1)

Submitted: October 19, 2017

Decided: October 23, 2017

Before NIEMEYER, MOTZ, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

James K. Burks, Jr., Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James K. Burks, Jr., petitions for a writ of mandamus seeking an order from this court directing the district court to act on his motion to show cause, which he filed in the district court on May 17, 2017. 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 district court's docket establishes that Burks' action is proceeding and reveals no undue delay in the district court. Accordingly, although we grant Burks' application to proceed in forma pauperis, we deny the 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