

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1718

In re: MANOJ KUMAR JHA,

Petitioner.

On Petition for Writ of Mandamus. (1:12-cr-00595-ELH-1; 1:16-cv-03449-ELH)

Submitted: October 23, 2018

Decided: October 25, 2018

Before NIEMEYER, KING, and WYNN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Manoj Kumar Jha, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Manoj Kumar Jha petitions for a writ of mandamus seeking an order from this court directing the district court judge to recuse herself in Jha's 28 U.S.C. § 2255 (2012) proceeding. He also seeks an order compelling the district court to rule on several motions pending in that action.

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).

Although mandamus may be used to seek recusal of a district court judge, the nature of the alleged bias must be personal and not arising out of litigation. *In re Beard*, 811 F.2d 818, 827 (4th Cir. 1987). Additionally, mandamus may not be used as a substitute for appeal. *Id.* at 826; *see In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007). We conclude that Jha is not entitled to mandamus relief.

Accordingly, although we grant leave to proceed in forma pauperis, we deny Jha's petition for a 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