

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-1240

In re: MICHAEL OWEN HARRIOT, a/k/a Lanky, a/k/a Donovan Smith, a/k/a
Richard Onyett, a/k/a Bernard Barber, a/k/a James D. Smith, a/k/a Michael Smith,

Petitioner.

On Petition for Writ of Mandamus. (3:99-cr-00341-MBS-3)

Submitted: May 16, 2019

Decided: May 20, 2019

Before DIAZ and THACKER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Michael Owen Harriot, Petitioner Pro Se. Stacey Denise Haynes, Assistant United States
Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael Owen Harriot petitions for a writ of mandamus seeking an order compelling the district court to hold an evidentiary hearing. We conclude that Harriot 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 Murphy-Brown, LLC*, 907 F.3d 788, 795 (4th Cir. 2018). Mandamus may not be used as a substitute for appeal. *In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007).

The relief sought by Harriot is not available by way of mandamus, and the record does not reveal undue delay in the district court on Harriot's similar motions filed there. 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