

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-1743

In re: DEONTA JEROME HICKS,

Petitioner.

On Petition for Writ of Mandamus. (1:16-cv-00189-CMH-IDD)

Submitted: October 17, 2019

Decided: October 21, 2019

Before MOTZ and QUATTLEBAUM, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Deonta Jerome Hicks, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Deonta Jerome Hicks, a Virginia inmate, petitions for a writ of mandamus seeking an order granting Hicks default judgment in his civil rights action. We conclude that Hicks 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 First Fed. Sav. & Loan Ass'n*, 860 F.2d 135, 138 (4th Cir. 1988).

In his petition, Hicks asserts that he should be awarded default judgment because Defendants failed to move for summary judgment within the time frame previously established by court order. But review of the district court's docket reveals that the court granted Defendants' motion for an extension of this period, accepted the late-filed motion for summary judgment, and has since granted it. Hicks asserts in his petition that Defendants did not have good cause for such an extension, but the district court found to the contrary, and mandamus may not be used as a substitute for appeal. *In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007).

We thus conclude that the relief sought by Hicks is not available by way of mandamus. Accordingly, 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