

UNPUBLISHED

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

No. 17-1172

In re: ALBERT CHARLES BURGESS,

Petitioner.

On Petition for Writ of Mandamus.
(1:09-cr-00017-GCM-DLH-1)

Submitted: April 25, 2017

Decided: April 28, 2017

Before MOTZ, DUNCAN, and AGEE, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Albert Charles Burgess, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Albert Charles Burgess, Jr., petitions for a writ of mandamus, seeking an order compelling the delivery of tapes of proceedings occurring in connection with his criminal prosecution. We conclude that Burgess 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). 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 Burgess is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, we deny the 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