

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-1238

In re: MICHAEL T. VERBURG,

Petitioner.

On Petition for Writ of Mandamus. (5:07-cr-00045-MBS-1)

Submitted: May 26, 2011

Decided: May 31, 2011

Before KING, SHEDD, and DIAZ, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Michael T. Verburg, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael T. Verburg petitions for a writ of mandamus seeking an order compelling the district court to dismiss the indictment underlying his 2009 criminal conviction for fraud, in violation of 18 U.S.C. §§ 1341 and 1342 (2006). We conclude that Verburg is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. United States 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 Verburg is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for writ of mandamus. We deny Verburg's pending motions, including his motion to compel, motion for transcript, motion for counsel, motion to expedite, and motion for release pending appeal. We dispense with oral argument because the facts and legal contentions are adequately

presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED