

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-2240

In re: CHARLES R. MAJOR, JR., a/k/a Charles R. Major,

Petitioner.

On Petition for a Writ of Mandamus.
(6:12-cv-00183-GRA)

Submitted: November 13, 2012

Decided: November 15, 2012

Before NIEMEYER, GREGORY, and DIAZ, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Charles R. Major, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles R. Major petitions for a writ of mandamus seeking an order to "force the district court to act on motions that were prejudicially ignored." We conclude that Major 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).

Our review of the record reveals that on September 28, 2012, the district court adopted the magistrate judge's recommendation and entered summary judgment in favor of the Defendants, explicitly denying as moot all other pending non-dispositive motions. Because Major has other means of pursuing the relief he seeks in mandamus, namely, to appeal the district court's order, mandamus relief is not available.

Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for writ of mandamus. We deny Major's request that the district judge and magistrate

judge be recused. 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