

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-2126

In Re: BEVERLY L. HENNAGER; LOUIS A. JENNINGS,
Petitioners.

On Petition for Writ of Mandamus.
(1:15-cv-00149-LO-TCB)

Submitted: December 9, 2016

Decided: January 4, 2017

Before AGEE, KEENAN, and FLOYD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Beverly L. Hennager, Louis A. Jennings, Petitioners Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Beverly L. Hennager and Louis A. Jennings petition for a writ of mandamus, asking that this court quash an order of the district court and direct the district court judge to recuse himself from the underlying dissolution action. Petitioners have also filed a motion to expedite. We deny mandamus relief.

Mandamus is a drastic remedy to 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). In fact, mandamus relief is available only when there are no other means by which the relief sought could be granted, see Moussaoui, 333 F.3d at 517, and the party has established they have a clear and indisputable right to the relief sought, see In re Braxton, 258 F.3d 250, 261 (4th Cir. 2001).

It is well established that mandamus may not be used as a substitute for appeal. Will v. United States, 389 U.S. 90, 97 (1967); In re Lockheed Martin Corp., 503 F.3d 351, 353 (4th Cir. 2007); see Moussaoui, 333 F.3d at 517. Although "a district judge's refusal to disqualify himself can be reviewed in this circuit by way of a petition for a writ of mandamus[,]" a writ of mandamus will not issue "when all that is shown is that the district court abused its discretion when making the challenged ruling." In re Beard, 811 F.2d 818, 826-27 (4th Cir. 1987).

We have reviewed Petitioners' filings and conclude that Petitioners have not established a clear and indisputable right to the relief sought. Accordingly, we deny mandamus relief. We deny as moot Petitioners' motion to expedite. 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