

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 00-1856**

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In Re: MICHAEL H. DITTON; NATHAN MICHAEL  
DITTON and WESLEY GEORGE DITTON, on behalf of  
and by his next friend Michael Henry Ditton,

Petitioners.

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On Petition for Writ of Mandamus.  
(CA-98-958-A, CA-99-1901-A)

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Submitted: October 31, 2000

Decided: November 28, 2000

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Before LUTTIG, WILLIAMS, and MICHAEL, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Michael Henry Ditton, Nathan Michael Ditton, Wesley George Ditton,  
Petitioners Pro Se.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Michael Henry Ditton filed this petition for a writ of mandamus seeking an order from this court compelling the district court to file his civil complaint notwithstanding that court's pre-filing injunction against Ditton. Mandamus is a drastic remedy to be used only in extraordinary circumstances. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976). Mandamus relief is only available when there are no other means by which the relief sought could be granted, see In re Beard, 811 F.2d 818, 826 (4th Cir. 1987), and may not be used as a substitute for appeal. See In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979). The party seeking mandamus relief carries the heavy burden of showing that he has "no other adequate means to attain the relief he desires" and that his right to such relief is "clear and indisputable." Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980). Ditton has not made such a showing.

Accordingly, although we grant leave to proceed in forma pauperis for the sole purpose of deciding this petition, we deny mandamus relief. 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