

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-2205

In Re: WILLIE A. KEY,

Petitioner.

On Petition for Writ of Prohibition. (CA-01-3076)

Submitted: January 17, 2002

Decided: January 28, 2002

Before WILKINS and KING, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petition denied by unpublished per curiam opinion.

Willie A. Key, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Willie A. Key filed this petition for a writ of prohibition, or in the alternative, a writ of mandamus, asking this court to direct the district court to cease certain practices concerning the treatment of pro se petitions and to increase the amount of time in which parties may respond to a magistrate judge's report and recommendation. Key also asks this court to order the district court to grant a hearing on his request for injunctive relief and to refund his filing fee.

Mandamus is a drastic remedy to be used only in extraordinary circumstances. 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, In re Beard, 811 F.2d 818, 826 (4th Cir. 1987), and may not be used as a substitute for appeal. In re Catawba Indian Tribe, 973 F.2d 1133, 1135 (4th Cir. 1992). The party seeking a writ of mandamus or prohibition carries the heavy burden of showing that he has no other adequate means to attain the relief he desires and that his entitlement to such relief is clear and indisputable. Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980); In re Braxton, 258 F.3d 250, 261 (4th Cir. 2001).

Key has failed to establish his right to such relief or that he has no other adequate means of relief. Accordingly, we deny Key's petition for a writ of prohibition or mandamus, his request

for a hearing, and his request for refund of the filing fee. 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