

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-6750**

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In Re: SHAWN RANDALL NORBREY,

Petitioner.

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On Petition for Writ of Mandamus. (CA-00-1803-AM)

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Submitted: May 31, 2001

Decided: June 11, 2001

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Before WILKINS, TRAXLER, and KING, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Shawn Randall Norbrey, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Shawn Randall Norbrey has filed a motion for a writ of prohibition seeking to have this court reverse his robbery conviction. 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 mandamus relief 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).

Because Norbrey has filed an appeal from the district court's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2000), and because the instant motion is tantamount to a second or successive § 2254 petition, for which he must obtain authorization from this court to file, see 28 U.S.C.A. § 2244 (West Supp. 2000), Norbrey has failed to show that he is entitled to such extraordinary relief. Accordingly, although we grant Norbrey leave to proceed in forma pauperis, we deny the motion. 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