

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6890

In Re: JEROME ADDISON,

Petitioner.

On Petition for Writ of Mandamus.
(CA-00-2557-2-12AJ)

Submitted: August 9, 2001

Decided: August 17, 2001

Before NIEMEYER, MOTZ, and GREGORY, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Jerome Addison, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jerome Addison has filed a petition for a writ of mandamus in this court seeking the district court to rule on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2000). 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). Addison has failed to make such a showing and we thus deny the petition. We also deny Addison's motion "for emergency relief" in which he seeks release on personal recognizance under Fed. R. App. P. 23(b)(3).

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