

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7408

In Re: JOSEPH JOHNSON, JR.,

Petitioner.

On Petition for Writ of Mandamus. (CR-93-209-M)

Submitted: December 20, 2001

Decided: January 2, 2002

Before LUTTIG, TRAXLER, and GREGORY, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Joseph Johnson, Jr., Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Joseph Johnson, Jr., has filed a petition for a writ of mandamus seeking to have this court direct the district court to act on a motion he alleges he filed on June 19, 2001, in a criminal case to expunge the record. Our review of the district court's docket sheet reveals that Johnson filed a motion to expunge the record in January 2001, and that the district court has ruled on the motion. There is no record of an identical motion filed in June 2001, as Johnson alleges. Further, this is the second petition for a writ of mandamus that Johnson has filed regarding a motion to expunge the record. Where there is another available remedy, mandamus relief is not available. In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). Mandamus relief is not a substitute for appeal. In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979). Johnson could have challenged the denial of his motion by filing an appeal. Accordingly, we deny mandamus relief. We grant Johnson's motion to proceed on appeal in forma pauperis. 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