

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-4491

In Re: ROBERT G. WHITE,

Petitioner.

On Petition for Writ of Mandamus. (CR-00-22)

Submitted: August 12, 2002

Decided: September 19, 2002

Before NIEMEYER, MOTZ, and GREGORY, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Robert G. White, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Robert G. White has filed a petition for a writ of mandamus seeking to have this court compel the district court to hold a suppression hearing or an evidentiary hearing to resolve his claims raised in a motion to dismiss the indictment filed May 2, 2002.

Mandamus is a drastic remedy and should only be used in extraordinary situations. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). 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 prohibition or 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).

White has not made such a showing. Whether White is entitled to a hearing is an issue that should be raised in the district court in the first instance. If that motion is denied, White may challenge the adverse ruling on appeal from the court's final order. Therefore, although we grant leave to proceed in forma pauperis, we deny White's petition for a writ of mandamus. 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